



COLORADO SCHOOLS AND ASSOCIATION RELEASE TIME:

MAKING THE PRIVILEGE ACCOUNTABLE AND TRANSPARENT TO CITIZENS

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Executive Summary

For the sake of public accountability and transparency, Colorado needs more effective oversight of education employee association leave. Through locally negotiated policies, many Colorado school districts grant release time privileges to local employee associations. Teachers and classified employees are excused from professional duties to serve extended periods as association officers or to spend particular days performing various association-related activities.

The need to employ a substitute teacher can lead to degraded or disrupted instruction. In addition, taxpayers often also subsidize employee association release time. In some cases, the district pays for both the released teacher and the substitute. In other cases, associations pay back school districts a considerably smaller amount than the released teacher's compensation. Although many school districts (and ultimately taxpayers) foot the bill for the net cost, little or nothing is done to ensure the underwritten absence serves basic educational purposes.

The most egregious documented use of school employee association release time occurred in 2004 in Fort Collins, when a taxpayer-subsidized local union president worked to organize a partisan campaign event during the school day, and even at school sites. It is not clear how often a similar scenario has been repeated in other school districts. But following an audit of release time practices in their state, Utah lawmakers enacted a statute forbidding political campaign activities on release time. The statute also requires local school districts to adopt policies to ensure all release time activities are done to benefit the educational program.

An Independence Institute survey of documented policies and procedures from Colo-

rado's 25 largest school districts strongly suggests significant lack of oversight of employee association release time. While some districts require administrative permission before release time is taken, only one district offered any sort of specific guidelines for the appropriate uses of association leave. No district requires association officers or representatives to account for the use of taxpayer-subsidized time.

Because state and local tax dollars provide the bulk of school district funding, stronger policies at both levels should be considered to address the problem and end abuses, as follows:

- Clearly stipulate in policy that association release time shall be used to benefit the educational mission of the district.
- Specifically indicate in policy which activities are permitted and which are restricted for association release time on classroom days.
- Specifically indicate in policy which activities require reimbursement from the association.
- Empower school officials to approve or deny requests for association release time based on the terms of the policy.
- Require employees to document a basic description of their usage of association release time on an electronic system that can easily be accessed and viewed online by parents and other citizens.

The issue of school employee release time certainly is controversial. But policy makers should at least forge a consensus to ensure greater accountability and transparency in the process. For the benefit of students, parents and other taxpayers, school districts should adopt and enforce clear guidelines on acceptable uses of employee association release time.

Introduction

In many Colorado school districts, employee associations – especially those representing teachers – have negotiated or otherwise obtained the privilege of taxpayer-subsidized employee release time to perform association business. Teachers and other school employees are released from professional duties to participate in various association activities. Most often the privilege is negotiated through a union master agreement, but in some cases it is authorized by board policies or accepted as a standard practice.

Many Colorado school districts provide some amount of taxpayer subsidies to employee associations in the form of:

- **Extended release time for one or more association officers** – most often the local union president; and/or
- **Allotments of leave days** available to employees to participate in association activities.

An Issue of Time and Money

Nineteen Colorado school districts grant extended release time to the local union president. As indicated below on table 1, only five of the local unions cover the entire cost of the released president’s salary and benefits. In the remaining districts, the president’s leave from the classroom is covered in part by taxpayers. The most common arrangement is for the union to reimburse the district in the amount of all or part of a first year teacher’s

salary. The difference between the senior teacher’s total compensation and a novice teacher’s salary results in a net taxpayer subsidy of \$30,000 to \$50,000 a year or more.

In addition, two school districts – Boulder Valley RE-2 and the Adams 12 school district in suburban Denver – grant leave to multiple local union officers. Adams 12 has released three local union officers this year at a cost of \$187,218 in salaries and benefits not reimbursed.¹

The problem of taxpayer subsidy also exists in the allotments of individual leave days for various association purposes. Twenty school districts not only pay the salary of the released teacher but also cover some or all of the substitute costs necessitated by the leave. In 19 districts the association is responsible to reimburse all the substitute costs (see table 2, p. 3).

While some districts maintain that reimbursement for substitutes is cost-neutral to taxpayers,² a case can be made that the payment responsibilities are reversed from what they should be. The substitute’s instructional responsibilities should be paid for by the district, while the association should pay the salary of the released teacher. Regardless of who finances the substitute teaching costs, students in the classrooms of released teachers are more likely to face disrupted or degraded instruction. It is therefore

Adams 12 (Northglenn-Thornton)	Denver Public Schools	Pueblo City Schools
Adams 50 (Westminster)	Douglas County Schools	Pueblo 70
Aurora Public Schools	Jefferson County Schools	St. Vrain Valley RE-1
Boulder Valley RE-2	Littleton Public Schools	Thompson R-2J (Loveland)
Brighton 27J	Mapleton Public Schools	Weld 6 (Greeley-Evans)
Cherry Creek Schools	Mesa Valley 51	
Colorado Springs 11	Poudre R-1 (Fort Collins)	

Legend: School districts in **bold** require the union to cover the complete cost of the president’s salary and benefits.

Adams 12 (Northglenn-Thornton)	Cherry Creek Schools	Huerfano RE-1	Pueblo 70
Adams 14 (Commerce City)	Colorado Springs 11	Jefferson County Schools	Sheridan 2
Adams 50 (Westminster)	Denver Public Schools	Las Animas RE-1	South Conejos RE-10
Alamosa RE-11J	Douglas County Schools	Littleton Public Schools	St. Vrain Valley RE-1
Aurora Public Schools	Durango 9-R	Mapleton Public Schools	Summit RE-1
Boulder Valley RE-2	East Otero R-1	Mesa Valley 51	Thompson R-2J (Loveland)
Brighton 27J	Englewood Schools	Montrose County RE-1J	Trinidad 1
Canon City RE-1	Florence RE-2	Poudre R-1 (Fort Collins)	Weld RE-5J
Centennial R-1	Fort Morgan RE-3	Pueblo City Schools	Weld 6 (Greeley- Evans)
Center 26 JT	Gunnison Watershed	Salida R-32	
<i>Legend: School districts in bold require the union to reimburse all substitute costs associated with leave activities.</i>			

imperative that careful attention be given to the purposes for which the additional privilege of association leave is used.

Uses of Association Leave

In most school districts, tax-subsidized association activities are inadequately monitored and accounted for. Only a few districts have policies that stipulate activities conducted on school time and/or paid for by public funds ought to align with the mission of educating students. Even so, it is often unclear how precisely these stipulations are determined and how carefully they are enforced.

As a result, it is difficult to discern the extent that subsidized release time is used for activities of broad educational value. School district boards should explore the following spectrum of possible activities used for release time and clearly communicate to their citizens which of them are acceptable uses of sanctioned time away from the classroom:

1. In addition to mandatory days on the school calendar, most districts already grant special leave to **participate in professional development activities** separate from association release time. But districts could decide to count association-sponsored professional activities that coincided with class time as an appropriate use of association leave.

2. Many districts likely also would consider acts performed by association officers to perform certain duties under the master agreement – such as helping to **resolve teacher grievances** – as legitimate school day activities, but may require the association to defray substitute costs.

3. Some districts explicitly grant release days for teachers to **negotiate union contracts**. All districts that grant association leave should clearly stipulate whether or not this is considered an appropriate use of release time

and whether the practice should be subsidized by taxpayers.

4. Most districts would have difficulty justifying to citizens that release time should be granted for employees to **participate in association membership drives** or even to sit in meetings that discuss related internal tactics and strategies.

5. The most egregious use of association release time would be for officers to **engage in electioneering and campaign-related activities** – especially of a partisan political nature.

Evidence that emerged in a recent Colorado court case found a tax-subsidized local union president actively involved in a partisan political campaign.

Association Leave and Politics: The Poudre Case

A documented case of tax-subsidized electioneering on school time presents the most powerful case for greater school district oversight of association leave. Evidence that emerged in a recent Colorado court case found a tax-subsidized local union president actively involved in a partisan political campaign.

During the 2004-05 school year, Poudre Education Association

(PEA) president Mary Lynn Jones' salary and benefits were paid by the Poudre School District in Fort Collins, Colorado. According to the terms of the union contract, the PEA reimbursed the district in the much smaller amount of one-half of a first year's teacher salary – or, about \$15,000.³ Then and now, taxpayers pick up most of the tab for the PEA president's compensation.

A 2005 complaint filed by two Fort Collins parents alleged that the union illicitly coordinated with Democrat and now-State Senator Bob Bacon during the 2004 election. In May 2008 a 5-2 Colorado Supreme Court majority

overturned a Court of Appeals ruling against the union in the case, known as *Rutt v. Poudre Education Association*.⁴

While the high court exempted union officials from certain constitutional campaign finance restrictions, evidence uncovered by the plaintiffs indicates PEA president Jones engaged directly in partisan campaign activities. She played an active role in organizing and conducting two PEA-sponsored Bacon campaign volunteer events, as follows:⁵

- Visited teachers in person at school sites urging them to volunteer;⁶
- Hosted an after-school meeting in which a CEA employee enlisted support for one of the campaign events (in a memo describing the meeting, Jones wrote: "Our commitment is to have 400 teachers *walk* and *talk* in pairs on behalf of Bob Bacon");
- Sent at least three email messages during school hours, urging PEA member district employees to volunteer for the events;
- Sent at least two letters urging members of other unions to volunteer for the events; and
- According to an internal memo, arranged an automated phone call to PEA members, contacted members of other CEA local unions, sent event fliers to "selected administrators," and helped to coordinate volunteer recruitment for one of the events.

Apart from the two PEA-sponsored campaign events, the record also shows that Jones did the following⁷:

- Sent one email message during school hours to PEA member district employees, enlisting their aid for a John Kerry presidential campaign event; and
- Authored a letter, as well as co-signed a PEA flier and newsletter, all urging support for Bacon over his Republican opponent.

It is not clear whether Poudre’s case of organized partisan campaign activity by a taxpayer-subsidized association official is an isolated one. Public access to similar substantial evidence from other local associations is highly limited. Yet what transpired in Fort Collins strongly indicates the need for greater accountability in how school districts grant and oversee association leave.

Utah: Case Study for Association Leave Accountability

The practice of taxpayer funds underwriting teacher associations is by no means isolated to Colorado. A 2001 Utah legislative performance audit found three-fourths of its state’s school districts to be “subsidizing local education associations with public funds by approximately \$210,000 annually without documenting a benefit.”⁸ As a result, the Utah legislature passed a 2002 law requiring school districts to adopt policies that ensure association leave activities benefit the educational program of the district and do not include political campaign activities.⁹

While the situation has tended to improve, adequate enforcement remains an issue. A November 2009 audit report examined six Utah school districts in-depth and found that, despite the law:

- None of the districts has written guidelines for activities that benefit the district.
- Five of the six districts do not require union presidents to formally account for time.
- Two of the six districts granted release time without prior administrative permission.¹⁰

The only other state known to have a law regulating or restricting the use of school district employee association leave is Arizona. In September 2009 Governor Jan Brewer signed into law House Bill 2011, which included a ban on “compensated days for pro-

fessional association activities” in negotiated school employee contracts.¹¹ (For copies of the relevant Utah and Arizona statutes, please see Appendix – “State Laws Regulating School Employee Association Leave.”)

Colorado: Survey Method

Concerned about the likelihood of similar public accountability shortcomings in Colorado, the Independence Institute conducted a December 2009 survey of the state’s 25 largest school districts to seek evidence of the three following items:

- A district budget document that discretely identifies expenditures and reimbursements for association leave day activities and extended release time.
- Written school board or administrative policies that govern the use of association leave days and/or release time, in particular policies that:
 - Establish guidelines to determine which activities participated in during leave days and/or extended release time benefit the district and its students, and which do not.
 - Require association officials or representatives who take any leave days and/or extended release time according to these terms to account for the use of their time.
 - Require administrative permission before leave days or extended release time is granted.
 - Effectively prohibit the practice of issuing district-subsidized association release time.
- Any and all forms used by employees:
 - To formally request association leave or release time.
 - To account for the use of association leave or release time.

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The 25 largest school districts serve more than 80 percent of Colorado’s public school student population. Of the 25 surveyed districts, 20 have one or more union master agreements with employee groups. In all, 23 of the 25 districts allow for some degree of tax-funded association leave, though in districts without master agreements the practice tends to be very limited.

Colorado: Survey Responses

Responses were collected from all 25 districts. The findings are broken down in table 3 below.

Budget Documentation

As indicated on table 3, 13 of the districts that permit subsidized association leave were able to provide some form of budget docu-

Table 3. Release Time Survey: Colorado's 25 Largest School Districts

District	Union Agreement	Tax-Subsidized		Budget Document	Policy				Forms	
		Leave Days	Union Officers		I	II	III	IV	I	II
Academy 20		Limited								
Adams 12	X	X	X							
Adams 14	X	X	X		X		X			X
Adams 50	X	X								X
Aurora	X	X	X	X						
Boulder Valley	X	X	X	P	X			P		X
Brighton	X	X	X	X						X
Cherry Creek	X	X	X							X
Colorado Springs 11	X	X	X		X					E
Denver	X	X	X	P						
Douglas County	X	X	X		X		X			
Falcon 49										
Fountain 8								X		X
Harrison 2		Limited								
Jefferson County	X	X		P		P	X			X
Littleton	X	X	X	P			X			E
Mesa Valley	X		X							
Montrose County	X	X		P						X
Poudre	X	X	X	X						E
Pueblo City	X	X		X						X
Pueblo 70	X	X								
St. Vrain Valley	X	X	X	P						
Thompson	X	X	X	P						
Weld County 6	X	X	X	P						E
Widefield 3		X		X			X			
TOTAL	20	22	15	13	4	1	6	1	13	0

Legend: P = Partial credit (see page 7); E = Electronic system used, no copy of form available (see page 8)

Policy I: Tax-funded association leave is only for educational activities that benefit the district.

Policy II: Guidelines are provided, detailing which specific activities benefit the district.

Policy III: Administrative permission is required before association leave is granted.

Policy IV: Employees on association leave are required to account for the use of their time.

Form I: Association leave is requested in writing on a standard form.

Form II: Association leave is accounted for on any sort of district form.

ment accounting for district finances used to cover the practice. However, partial credit (P) was given in most cases, for one of the following reasons:

- The document covered some, but not all, instances of association leave.
- The document accounted for expenditures but not reimbursements.
- The document aggregated spending on association leave with other activities.

Association Leave Policies and Accountability Measures

In the case of all unionized districts, the negotiated master agreement serves as the arbiter of association leave policy. All governing policies were examined for provisions that have the following effects:

I. Stipulate that tax-subsidized association leave is only for educational activities that benefit the district.

Four of the surveyed districts (Adams County 14, Boulder Valley RE-2, Colorado Springs 11 and Douglas County R-1) carry a stipulation in their policy that release time should fit the educational mission of the school district. Adams 14 approves tax-funded leave for the association president and other association representative to participate in “activities of the Association which contribute to the education program of the District and which are approved by the Superintendent.”¹² However, administrators gave only two reasons why requests for activities that “pertain to association business or training” are denied: lack of substitute teachers or conflict with CSAP testing or other activities “that may create a hardship for the District.”¹³

II. Establish specific guidelines that specifically detail what activities benefit the district.

Jefferson County R-1 is the only school district that provided any sort of guidelines for

what activities should be charged to the association. According to the terms of the master agreement, one representative of the classified employees union (CSEA) is afforded up to 16 hours of leave per week.¹⁴ CSEA is not charged for release time used to attend executive board meetings or contract negotiations, or to represent an employee in a grievance.¹⁵ No guidelines were provided concerning teachers union leave activities — though the Jefferson County Education Association (JCEA) is provided with a full 275 subsidized release days per school year.¹⁶

III. Require administrative permission before leave days or extended release time is granted. Six of the 25 school districts have policies that explicitly require permission be granted from the superintendent or another administrative official before association leave is extended. It is unclear how rigorous this process is. But indications are that the procedure is largely a formality in at least the districts with union master agreements, as long as a substitute is available and the request does not come during an especially inconvenient time on the district calendar.

IV. Require association officials or representatives to account for the use of their time.

Boulder Valley is the only district to provide any sort of requirement that employees taking use of either short-term or extended leave from professional duties at public expense should formally account for the use of their time. If requested by the deputy superintendent, the teachers association president shall submit “a report covering his/her activities relative to the improvement of the District instructional program and/or his/her contributions toward the solution of

No guidelines were provided concerning teachers union leave activities — though the Jefferson County Education Association is provided with a full 275 subsidized release days per school year.

employee personnel problems.”¹⁷ However, no such report has been requested or created within the past 10 years.¹⁸

Association Leave Forms

Two basic kinds of forms were requested to determine more clearly the procedures for approving and monitoring association leave:

I. Does the district have a form employees use to formally request association leave?

Nine districts indicated they use forms for employees to request association leave and provided standard blank copies. Of the nine forms, five devoted a line on the form to indicate a specific reason for the release time. Four other districts — Colorado Springs 11, Littleton Public Schools, Poudre R-1 and Weld County 6 — indicated they use electronic systems to process requests for association leave.

II. Does the district have a form employees use to account for the use of association release time?

No districts indicated they have such a form, and none were provided.

Ideally, all school employee association leave prerogatives should be cost-neutral to taxpayers and incur minimal disruption of classroom instruction.

Increasing Accountability and Transparency

Ideally, all school employee association leave prerogatives should be cost-neutral to taxpayers and incur minimal disruption of classroom instruction. A few local Colorado associations fully cover the cost of their presidents’ leave from professional duties. All others should assume the same responsibility. Some local Colorado associations are obligated to pay the substitute costs for every individual leave day taken. This arrangement is the least that should be tolerated.

Even so, there should be broad agreement that greater accountability and transparency

is needed in the process. Improved oversight of association leave could be accomplished with minimal burden. School districts that grant such leave also should take the following steps:

1. Clearly stipulate in policy that association release time shall be used to benefit the educational mission of the district. It is an important principle that should be clearly articulated, and not taken for granted.

2. Specifically indicate in policy which activities are permitted and which are restricted for association release time on classroom days. Parents and other citizens deserve to know for which reasons teachers are allowed to take leave from professional duties.

3. Specifically indicate in policy which activities require reimbursement from the association. Parents and other citizens deserve to know which activities may be subsidized by taxpayer dollars.

4. Empower school officials to approve or deny requests for association release time based on the terms of the policy. Both citizens and employees deserve a fair and reasonable application of policies dictating acceptable uses of release time.

5. Require employees to document a basic description of their usage of association release time on an electronic system that can easily be accessed and viewed online by parents and other citizens. Online transparency promotes improved relations between the district and the public, and aids in a just enforcement of the policy.

Further, the Colorado General Assembly should consider following Utah’s example and set a statewide requirement for school districts to establish such policies. Such an

approach could achieve broader consensus than a more controversial proposal, like the outright prohibition recently enacted in Arizona (see Appendix, p. 10).

Conclusion

While most of Colorado's largest school districts grant a significant amount of release time to employee associations, very few

safeguards exist to ensure public funds and professional days are being used to promote educational activities that benefit students. Further investigation is warranted not only to help determine the extent that taxpayer dollars and students' time are used to underwrite the interests of a private organization, but also to limit the risk of abuses.

Appendix:
**State Laws Regulating School Employee
Association Leave**

UTAH

53A-3-425. Association leave -- District policy.

(1) As used in this section, "association leave" means leave from a school district employee's regular school responsibilities granted for that employee to spend time for association or union duties.

(2) Prior to any school district employee's participation in paid or unpaid association leave, a local school board shall adopt a written policy that governs association leave.

(3) If a local school board adopts a policy to allow paid association leave, the policy shall include procedures and controls to:

(a) ensure that the duties performed by employees on paid association leave directly benefit education within the school district;

(b) require the school district to document the use and approval of paid association leave;

(c) require school district supervision of employees on paid association leave;

(d) require the school district to account for the costs and expenses of paid association leave;

(e) ensure that during the hours of paid association leave a school district employee may not engage in political activity, including:

(i) actively campaigning for candidates for public office in partisan and nonpartisan elections; and

(ii) fundraising for political organizations, political parties, or candidates;

(f) ensure that association leave is only paid out of school district funds when the paid association leave directly benefits education within the district; and

(g) require the reimbursement to the school district of the cost of paid association leave activities that do not provide a direct

benefit to education within the school district.

(4) If a local school board adopts a policy to allow paid association leave, that policy shall indicate that a willful violation of this section or of a policy adopted in accordance with Subsection (2) or (3) may be used for disciplinary action under Section 53A-8-104.

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ARIZONA

15-504. Contract days for professional association activities; prohibition

School district employment contracts shall not include compensated days for professional association activities. For the purposes of this section, professional association activities do not include conduct that occurs during a field trip for pupils. This section does not prohibit individual employees of school districts from taking compensated leave time for any personal purpose, any professional purpose or any other lawful purpose.

Notes

¹ "Adams 12 Five Star Schools - Costs Incurred for Association Salaries," document attached to electronic mail to the author from Mark Hinson, Assistant Superintendent of Human Resources, Adams 12 Five Star Schools, December 10, 2009.

² An example of this reasoning comes from Kathleen Crume, Asst. Superintendent for Human Resources, Academy School District 20, electronic mail to the author, December 7, 2009. Crume writes: "The school district has followed a practice of allowing a limited number of local association officers to attend the state conference and the local association reimburses the district for the cost of substitutes if needed. Accordingly, there is no cost to the district."

³ *Employee Agreement Between The Association of Classified Employees, The Poudre Association of School Executives, The Poudre Education Association and The Board of Education Poudre School District*, Article 5.2.1; Salary Schedule T, Poudre School District Educator Salary Schedule, 2004-2005 School Year.

⁴ Colorado Bar Association, *The Colorado Lawyer*, Colorado Supreme Court Opinion, Case No. 06SC559, <http://www.cobar.org/opinions/opinion.cfm?opinionid=6640&courtid=2>.

⁵ A scanned copy of the relevant documents is available at <http://www.scribd.com/doc/25077198>.

⁶ Division of Administrative Hearings, State of Colorado, Case No. 2005-0003, Deposition of Mary Lynn Jones, May 11, 2005, p. 33, <http://www.scribd.com/doc/25076924> (scanned copy). Jones testified that the in-school meetings occurred during "a variety of times before school, after school, during their lunch, duty-free lunchtime."

⁷ A scanned copy of the relevant documents is available at <http://www.scribd.com/doc/25077237>.

⁸ Office of Legislative Auditor General, State of Utah, "A Performance Audit of School District Funding of Education Association Activity" (December 2001), http://le.state.ut.us/audit/01_11rpt.pdf.

⁹ Utah Code § 53A-3-425(3).

¹⁰ Office of Legislative Auditor General, State of Utah, "Association Leave in Utah's School Districts" (November 2009), Report No. ILR2009-B, http://www.le.state.ut.us/audit/09_bilr.pdf.

¹¹ Arizona Revised Statutes § 15-504.

¹² *Agreement Between Adams County School District 14 and School District 14 Classroom Teachers' Association, July 1, 2009, through June 30, 2012*, p. 34, Article 14-6 and 14-7, <http://www.adams14.org/Websites/adams14/Images/0910CTAMasterAgreement.pdf>.

¹³ John Albright, Adams 14 Director of Communications, electronic mail to the author, December 17, 2009.

¹⁴ *Agreement Between the Jefferson County School District Board of Education and the Classified School Employees Association (CSEA), Effective September 1, 2009 - August 31, 2013*, Article 7-6, <http://sc.jeffco.k12.co.us/education/components/docmgr/default.php?sectiondetailid=194396>.

¹⁵ Jefferson County Public Schools, "CSEA Release Time Procedures (10-03)." This "procedural document" was attached to a letter to the author from Lynn Setzer, Executive Director, Jeffco Public Schools Communications Services, December 7, 2009.

¹⁶ *Negotiated Agreement Between Jefferson County Public Schools and Jefferson County Education Association, September 1, 2007 - August 31, 2011*, Article 35-7, http://sc.jeffco.k12.co.us/education/sctemp/f5293f825c4b29c61c4e5ccaa59dc775/1263251219/AGREEMENT_2007-2011_ADDENDUM_2008_2009__INCORPORATED_8-09.pdf.

¹⁷ *Agreement Between the Board of Education and the Employees Represented by the Boulder Valley Education Association of the Boulder Valley School District RE2J, July 1, 2008 - June 30, 2009*, p. 53, Section F-1.1, <http://bvsd.org/HR/Documents/Negotiated%20BVEA%20Agreement%202008-2009.pdf>.

¹⁸ Briggs Gamblin, Director of Communications and Legislative Policy, Boulder Valley School District, electronic mail to the author, January 11, 2010.

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