

**Judge Mosbarger – Law & Motion – Wednesday, January 15, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1. 24CV02514 JANE CDE DOE ET AL V. CHICO UNIFIED SCHOOL DISTRICT ET AL

EVENT: Plaintiff's Motion to Compel Further Responses of Defendant Chico Unified School District to Demand for Production of Documents, Set One

Both parties acknowledge that Defendant Grant Oliver (“Oliver” herein) has a right of privacy in his personnel records, which is supported by California law that has expressly states that personnel files, employment records, and communications to the employer are private. *Board of Trustees v. Superior Court* (1981) 119 Cal.App.3d 516, 528. Here however, the Court finds that Plaintiffs have satisfied their burden of showing a compelling state interest, and the absence of alternative means to accomplish that interest to compel the production of the requested documents. See, *Williams v. Superior Court* (2017) 3 Cal.5th 531, and *Hill v. National Collegiate Athletic Association* (1994) 7 Cal.4th 1. As such the Motion is granted as to Oliver’s personnel file.

As to third-party student statements which Defendant argues are non-discoverable pursuant to *Education Code* §49075(a) and 20 U.S.C. §1232g, the Court finds that nothing in the cited authorities, nor the Family Educational Rights and Privacy Act (34 C.F.R. §99) create a privilege preventing disclosure of the records, and Plaintiffs’ argument is compelling in that the requested information and documentation relating to prior instances of abuse of other students is directly relevant to Plaintiffs’ allegations that Defendant had knowledge of Oliver’s dangerous propensities and failed to remove him. The Court does limit the production to require Defendant redact the minor students’ names.

Title IX is a federal law that prohibits sex discrimination in educational settings, including schools and other programs that receive federal funding. In Defendant’s Privilege Log, there are two documents identified which Defendant claims are non-discoverable under Title IX: (1) Title IX Notification Letter from CUSD to Grant Oliver dated 9/11/2024, and (2) Title IX Notification Letter from CUSD to Grant Oliver dated 09/13/2024. The Court agrees that any investigation by Lindsay Moore of Kingsley Bogard, LLP, including any reports, communications with Defendant, and her investigation file, are protected by the attorney work product and attorney-client privileges. However, the two letters identified are not communications between counsel and client, nor do they necessarily contain only work product. The letters could simply state, for example, that “we have been advised of a claim of XYZ that occurred on [date].” The fact that these letters exist and were provided by Defendant to Oliver is relevant, discoverable, and not protected by any privilege. As such, the Motion is granted as to these documents with redaction permitted of any attorney work product (any information “created by or derived from an attorney’s work on behalf of a client that reflects the attorney’s evaluation or interpretation of the law or the facts involved”).

As to any CANRA reports, the Court finds that those are confidential and protected pursuant to *Penal Code* §11167. Under *Penal Code* §11167(d)(1), the Court has the authority to order the name of the person making the report be disclosed, but nothing more. Here, that is not what is being requested. Thus, the Motion is denied in this regard.

Although the personnel files of third parties is referenced only briefly by Defendant, and not substantively addressed by Plaintiffs, the Court finds that any personnel files of third-party faculty to be protected by privacy rights of those faculty and there has been no showing by Plaintiffs as to why those documents should be disclosed given that privacy protection. The Motion is therefore denied in this regard.

Finally, specifically as it relates to Request for Production No. 12, this Request seeks "ALL COMMUNICATIONS between YOU and OLIVER at ANY time." This is overbroad. The Court does order Defendant to provide a further response to this Request, but such response shall be limited to communications directly relevant to Plaintiffs' claims of sexual abuse and Defendant's alleged negligence. Additionally, the production shall be limited to include redaction of the names of any minor students.

Further verified responses shall be provided by Defendant within 14 days' notice of this order.

Counsel for the Plaintiffs shall submit a revised form of order consistent with this ruling within two weeks.

2. 21CV00994 TARMAN, THOMAS A V. PARKER, ROBERT F

EVENT: Motion for Judgment on the Pleadings

This matter is continued to February 19, 2025 at 9:00 a.m. Oppositions and Replies are to be filed pursuant to *Code of Civil Procedure* §1005(b) in relation to the continued hearing date.