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23 **UNITED STATES DISTRICT COURT**
 24 **CENTRAL DISTRICT OF CALIFORNIA**

25 S.A., by and through his guardian ad
 26 litem, Lisa Trifiletti,
 27 Plaintiff,

28 v.

29 HACIENDA LA PUENTE UNIFIED
 30 SCHOOL DISTRICT.

31 Defendant.

32) Case No.: 2:17-CV-02759-
 33) BRO(PJWx)

34) **DISCOVERY MATTER**

35) **STIPULATED PROTECTIVE**
 36) **ORDER**

1 1. PURPOSES AND LIMITATIONS

2 Discovery in this action will involve production of the confidential, personal
3 medical and educational information of a foster youth for which special protection
4 from public disclosure and from use for any purpose other than prosecuting this
5 litigation may be warranted. Accordingly, the parties hereby stipulate to and petition
6 the Court to enter the following Stipulated Protective Order (“Order”). The parties
7 acknowledge that this Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and
9 use extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as
11 set forth in Section 13.3 below, that this Stipulated Protective Order does not entitle
12 them to file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a party
14 seeks permission from the Court to file material under seal.

15 2. GOOD CAUSE STATEMENT

16 Plaintiff S.A. is a six-year-old foster child who has been diagnosed with
17 autism spectrum disorder. He has been enrolled as a special education student in
18 defendant Hacienda La Puente Unified School District (“District”) since 2014. In
19 this action, S.A. alleges that District discriminated against him on the basis of his
20 disability by engaging in an illegal pattern and practice of shortening S.A.’s school
21 schedule, excluding him from school on the basis of his disability, and failing to
22 provide appropriate accommodations and supports. Accordingly, S.A. alleges that
23 District deprived him of the benefits of, and access to, his education including, but
24 not limited to, those early interventions that are so crucial for children on the autism
25 spectrum. District denies S.A.’s allegations, denies his claims for injunctive relief
26 and damages, and denies it has any liability to him.

27 Because of the nature of this case, the Parties anticipate that they will seek and
28 rely on confidential information throughout the course of discovery and in support of

1 their claims and defenses, including, but not limited to, academic and/or
2 performance records; nursing and health records; medical information;
3 psychoeducational evaluations; and individualized education or 504 plans. Most, if
4 not all of this information is protected from disclosure under state or federal statutes,
5 court rules, case decisions or common law, particularly because S.A. is a foster
6 youth who remains under the jurisdiction of the Juvenile Court.

7 The Parties and any third parties whose confidential or private information
8 may be discussed or referred to within these documents may be harmed if no
9 protective order is entered to shield against the dissemination of such private,
10 confidential information. Thus, in order to expedite the flow of information, to
11 facilitate the prompt resolution of disputes over confidentiality of discovery
12 materials to adequately protect information the parties are entitled to keep
13 confidential, to ensure that the parties are permitted reasonable, necessary uses of
14 such material in preparation for and in the conduct of the trial, to address their
15 handling at the end of litigation and serve the ends of justice, a protective order is
16 justified in this matter. It is the intent of the parties that information will not be
17 designated as confidential for tactical reasons and that nothing be so designated
18 without a good faith belief that has been maintained in a confidential, non-public
19 manner, and there is good cause why it should not be part of the public record in this
20 case.

21 3. DEFINITIONS

22 3.1 Action: *S. A., by and through his guardian ad litem, Lisa Trifilleti v.*
23 *Hacienda La Puente Unified School District, Case No.: 2:17-CV-02759-*
 BRO-PJW (C. D. CA)

24 3.2 Challenging Party: A Party or Non-Party that challenges the designation of
25 information or items under this Order.

26 3.3 “CONFIDENTIAL” Information or Items: information (regardless of how
27 it is generated, stored or maintained) or tangible things that qualify for
28 protection under Federal Rule of Civil Procedure 26(c), and as specified

1 above in the Good Cause Statement.

2 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
3 support staff).

4 3.5 Designating Party: a Party or Non-Party that designates information or
5 items that it produces in disclosures or in responses to discovery as
6 “CONFIDENTIAL.”

7 3.6 Disclosure or Discovery Material: all items or information, regardless of
8 the medium or manner in which it is generated, stored or maintained
9 (including, among other things, testimony, transcripts and tangible things),
10 that are produced or generated in disclosures or responses to discovery in
11 this matter.

12 3.7 Expert: a person with specialized knowledge or experience in a matter
13 pertinent to the litigation who has been retained by a Party or its counsel to
14 serve as an expert witness or a consultant in the Action.

15 3.8 House Counsel: attorneys who are employees of a Party to this Action.
16 House Counsel does not include Outside Counsel of Record or any other
17 outside counsel.

18 3.9 Non-Party: any natural person, partnership, corporation, association or
19 other legal entity not named as a Party to this action.

20 3.10 Outside Counsel of Record: attorneys who are not employees of a Party
21 to this Action but are retained to represent or advise a Party to this Action
22 and have appeared in this Action on behalf of that Party or are affiliated
23 with a law firm which has appeared on behalf of that Party or in the related,
24 administrative due process case.

25 3.11 Party: any party to this Action, including its officers, directors,
26 employees, consultants, retained experts and Outside Counsel of Record
27 (and their support staffs).
28

1 3.12 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this Action.

3 3.13 Professional Vendors: persons or entities that provide litigation support
4 services (e.g. photocopying, videotaping, translating, preparing exhibits or
5 demonstrations and organizing, storing or retrieving data in any form or
6 medium) and their employees and subcontractors.

7 3.14 Protected Material: any Disclosure or Discovery Material that is
8 designated as “CONFIDENTIAL.”

9 3.15 Receiving Party: a Party that receives Disclosure or Discovery Material
10 from a Producing Party.

11 4. SCOPE

12 The protections conferred by this Stipulation and Order cover not only
13 Protected Material (as defined above), but also (1) any information copied or
14 extracted from Protected Material; (2) all copies, excerpts, summaries or
15 compilations of Protected Material; and (3) any testimony, conversations or
16 presentations by Parties or their Counsel that might reveal Protected Material.

17 Any use of Protected Material at trial shall be governed by the orders of the trial
18 judge. This Order does not govern the use of Protected Material at trial.

19 5. DURATION

20 Even after final disposition of this litigation, the confidentiality obligations
21 imposed by this Order shall remain in effect until a Designating Party agrees
22 otherwise in writing or a court order otherwise directs. Final disposition shall be
23 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
24 with or without prejudice; and (2) final judgment herein after the completion and
25 exhaustion of all appeals, rehearings, remands, trials or reviews of this Action,
26 including the time limits for filing motions or applications for extension of time
27 pursuant to applicable law.
28

1
2 6. DESIGNATING PROTECTED MATERIAL

3 6.1 Exercise of Restraint and Care in Designating Materials for Protection

4 Each Party or Non-Party that designates information or items for protection under
5 this Order must take care to limit any such designations to specific material that
6 qualifies under the appropriate standards. The Designating Party must designate
7 for protection only those parts of material, documents, items or oral or written
8 communications that qualify so that other portions of the material, documents,
9 items or communications for which protection is not warranted are not swept
10 unjustifiably within the ambit of this Order.

11 Mass, indiscriminate or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (e.g. to unnecessarily encumber the case development process or to
14 impose unnecessary expenses and burdens on other parties) may expose the
15 Designating Party to sanctions.

16 If it comes to a Designating Party's attention that information or items that it
17 designated for protection do not qualify for protection, that Designating Party
18 must promptly notify all other Parties that it is withdrawing the inapplicable
19 designation.

20 6.2 Manner and Timing of Designations. Except as otherwise provided in this
21 Order (see, e.g. second paragraph of section 6.2(a) below, or as otherwise
22 stipulated or ordered, Disclosure or Discovery Material that qualifies for
23 protection under this Order must be clearly so designated before the
24 material is disclosed or produced.

25 Designation in conformity with this Order requires:

- 26 (a) For information in documentary form (e.g. paper or electronic documents,
27 but excluding transcripts of depositions or other pretrial or trial proceedings),
28 that the Producing Party affix at a minimum, the legend "CONFIDENTIAL"

1 (hereinafter “CONFIDENTIAL legend”), to each page that contains
2 protected material. If only a portion or portions of the material on a page
3 qualifies for protection, the Producing Party also must clearly identify the
4 protected portions(s) (e.g. by making appropriate markings in the margins).

5 A Party or Non-Party that makes original documents available for
6 inspection need not designate them for protection until after the inspecting
7 Party has indicated which documents it would like copied and produced.
8 During the inspection and before designation, all of the original material
9 made available for inspection shall be deemed “CONFIDENTIAL.” After
10 the inspecting Party has identified the documents it wants copied and
11 produced, the Producing Party must determine which documents, or portions
12 of documents, qualify for protection under this Order. Then, before
13 producing the specified documents, the Producing Party must affix the
14 “CONFIDENTIAL legend” to each page that contains Protected Material. If
15 only a portion or portions of the material on a page qualifies for protections,
16 the Producing Party also must clearly identify the protected portions(s) (e.g.,
17 by making appropriate markings in the margins.)

18 (b) For testimony given in depositions that the Designating Party identify the
19 Disclosure or Discovery Material on the record, before the close of the
20 deposition all protected testimony.

21 (c) For information produced in some form other than documentary and for any
22 other tangible items that the Producing Party affix in a prominent place on
23 the exterior of the container or containers in which the information is stored
24 the legend “CONFIDENTIAL.” If only a portion or portions of the
25 information warrants protection, the Producing Party, to the extent
26 practicable, shall identify the protected portion(s).

27 6.3 Inadvertent Failure To Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone,

1 waive the Designating Party's right to secure protection under this Order for
2 such material. Upon timely correction of a designation, the Receiving Party
3 must make reasonable efforts to assure that the material is treated in
4 accordance with the provisions of this Order.

5 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
7 designation of confidentiality at any time that is consistent with the Court's
8 Scheduling Order.

9 7.2 Meet and Confer. The Challenging Party shall initiate the dispute
10 resolution process under Local Rule 37.1 et seq.

11 7.3 Burden. The burden of persuasion in any such challenge proceeding shall
12 be on the Designating Party. Frivolous challenges, and those made for an
13 improper purpose (e.g. to harass or impose unnecessary burdens and
14 expenses on other parties) may expose the Challenging Party to sanctions.
15 Unless the Designating Party has waived or withdrawn the confidentiality
16 designation, all parties shall continue to afford the material in question the
17 level of protection to which it is entitled under the Producing Party's
18 designation until the Court rules on the challenge.

18 8. ACCESS TO AND USE OF PROTECTED MATERIAL

19 8.1 Basic Principles. A Receiving Party may use Protected Material that is
20 disclosed or produced by another Party or by a Non-Party in connection
21 with this Action only for prosecuting, defending or attempting to settle this
22 Action. Such Protected Material may be disclosed only to the categories of
23 persons and under the conditions described in this Order. When the Action
24 has been terminated, a Receiving Party must comply with the provisions of
25 section 14 below (FINAL DISPOSITION). Protected Material must be
26 stored and maintained by a Receiving Party at a location and in a secure
27 manner that ensures that access is limited to the persons authorized under
28 this Order.

1 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
2 ordered by the Court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated
4 “CONFIDENTIAL” only to:

5 (a) The Receiving Party’s Outside Counsel of Record in this Action, as
6 well as employees of said Outside Counsel to whom it is reasonably necessary
7 to disclose the information for this Action;

8 (b) the officers, directors and employees (including House Counsel) of
9 the Receiving Party to whom disclosure is reasonably necessary for this Action;

10 (c) Experts (as defined in this Order) of the Receiving Party to whom
11 disclosure is reasonably necessary for this Action and who have signed the
12 “Acknowledgment and Agreement To Be Bound” (Exhibit A);

13 (d) the Court and its personnel;

14 (e) Court reporters and staff;

15 (f) Professional jury or trial consultants, mock jurors and Professional
16 Vendors to whom disclosure is reasonably necessary for this Action and who
17 have signed the “Acknowledgement and Agreement To Be Bound” (Exhibit A);

18 (g) the author or recipient of a document containing the information or
19 a custodian or other person who otherwise possessed or knew the information;

20 (h) During their depositions, witnesses and attorneys for witnesses in
21 the Action to whom disclosure is reasonably necessary provided: (1) the
22 deposing party requests that the witness sign the form attached as Exhibit A;
23 and (2) they will not be permitted to keep any confidential information unless
24 they sign Exhibit A (“Agreement and Acknowledgement To Be Bound”) unless
25 otherwise agreed by the Designating Party or ordered by the Court. Pages of
26 transcribed deposition testimony or exhibits to depositions that reveal Protected
27 Material may be separately bound by the court reporter and may not be
28 disclosed to anyone except as permitted under this Order; and

1 (i) Any mediator or settlement officer and their supporting personnel, as
2 mutually agreed upon by any of the parties engaged in settlement discussions.

3 **9. PROTECTED MATERIAL SUBPOENED OR ORDERED PRODUCED**
4 **IN OTHER LITIGATION**

5 If a Party is served with a subpoena or a court order issued in other litigation
6 that compels the disclosure of any information or items designated in this
7 Action as “CONFIDENTIAL,” that Party must:

- 8 (a) Promptly notify in writing the Designating Party and include a copy
9 of the subpoena or court order;
- 10 (b) Promptly notify in writing the party who caused the subpoena or
11 order to issue in the other litigation that some or all of the material
12 covered by the subpoena or order is subject to this Protective Order;
13 and
- 14 (c) Cooperate with respect to all reasonable procedures sought to be
15 pursued by the Designating party whose Protected Material may be
16 affected.

17 If the Designating Party timely seeks a protective order, the Party
18 served with the subpoena or court order shall not produce any
19 information designated in this action as “CONFIDENTIAL” before a
20 determination by the court from which the subpoena or order issued,
21 unless the Party has obtained the Designating Party’s written
22 permission. The Designating Party shall bear the burden and expense
23 of seeking protection in that court of its confidential material and
24 nothing in these provisions should be construed as authorizing or
25 encouraging a Receiving Party in the Action to disobey a lawful
26 directive from another court.

27 **10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
28 **PRODUCED IN THIS LITIGATION**

1 (a) The terms of this Order are applicable to information produced by a Non-
2 Party in this Action and designated as “CONFIDENTIAL.” Such
3 information produced by Non-Parties in connection with this litigation is
4 protected by the remedies and relief provided by this Order. Nothing in
5 these provisions should be construed as prohibiting a Non-Party from
6 seeking additional protections.

7 (b) In the event that a Party is required, by a valid discovery request, to
8 produce a Non-Party’s confidential information in its possession and the
9 Party is subject to an agreement with the Non-Party not to produce the
10 Non-Party’s confidential information, then the Party shall:

11 (1) Promptly notify in writing the Requesting Party and the Non-Party
12 that some or all of the information requested is subject to a
13 confidentiality agreement with a Non-Party;

14 (2) Promptly provide the Non-Party with a copy of this Order, the
15 relevant discovery request(s) and a reasonably specific description
16 of the information requested; and

17 (3) Make the information requested available for inspection by the Non-
18 Party if requested.

19 (c) If the Non-Party fails to seek a protective order from this Court within 14
20 days of receiving the notice and accompanying information, the Receiving
21 Party may produce the Non-Party’s confidential information responsive to
22 the discovery request, but must adhere to this Order to the extent it applies
23 to such information. If the Non-Party timely seeks a protective order, the
24 Receiving Party shall not produce any information in its possession or
25 control that is subject to the confidentiality agreement with the Non-Party
26 before a determination by the Court. Absent a court order to the contrary,
27 the Non-Party shall bear the burden and expense of seeking protection in
28 this Court of its Protected Material.

11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

1 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
2 Protected Material to any person or in any circumstance not authorized under this
3 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
4 writing the Designating Party of the unauthorized disclosure; (b) use its best
5 efforts to retrieve all unauthorized copies of the Protected Material,(c) inform the
6 person or persons to whom unauthorized disclosures were made of all of the
7 terms of this Order, and (d) request such person or persons execute the
8 “Acknowledgment and Agreement To Be Bound” that is attached as Exhibit A.

9 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
10 **PROTECTED MATERIAL**

11 When a Producing Party gives notice to Receiving Parties that certain
12 inadvertently produced material is subject to a claim of privilege or other
13 protection, the obligations of the Receiving Party shall be those set forth in
14 Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
15 modify whatever procedure may be established in an e-discovery order that
16 provides for production without prior privilege review. Pursuant to Federal Rule
17 of Evidence 502(d) and (e), insofar as the parties reach an agreement on the
18 effect of disclosure of a communication or information covered by the attorney-
19 client privilege or work product protection, the parties may incorporate their
20 agreement in the stipulated protective order submitted to the Court.

21 **13. MISCELLANEOUS**

22 13.1 **Right to Further Relief.** Nothing in this Order abridges the right of any
23 person to seek its modification by the Court in the future.

24 13.2 **Right to Assert Other Objections.** By stipulating to the entry of this
25 Protective Order, no Party waives any right it otherwise would have to
26 object to disclosing or producing any information or item on any ground
27 not addressed in this Order. Similarly, no Party waives any right to object
28 on any ground to use in evidence of any of the material covered by this

1 Stipulated Protective Order.

2 13.3 Filing Protected Material. A Party that seeks to file under seal any
3 Protected Material must comply with Civil Local Rule 79-5. Protected
4 Material may only be filed under seal pursuant to a court order
5 authorizing the sealing of the specific Protected Material at issue. If a
6 Party's request to file Protected Material under seal is denied by the
7 Court, then the Receiving Party may file the information in the public
8 record unless otherwise instructed by the Court.

9 14. FINAL DISPOSITION

10 After the final disposition of this Action, as defined in paragraph 5,
11 within 60 days of a written request by the Designating Party, each Receiving
12 Party must return all Protected Material to the Producing Party or destroy such
13 material. As used in this subdivision, "all Protected Material" includes all
14 copies, abstracts, compilations, summaries and any other format reproducing or
15 capturing any of the Protected Material. Whether the Protected Material is
16 returned or destroyed, the Receiving Party must submit a written certification to
17 the Producing Party (and if not the same person or entity, the Designating
18 Party) by the 60 day deadline that (1) identifies (by category, where
19 appropriate) all the Protected Material that was returned or destroyed and (2)
20 affirms that the Receiving Party has not retained any copies abstracts,
21 compilations, summaries or any other format reproducing or capturing any of
22 the Protected Material. Notwithstanding this provision, Counsel are entitled to
23 retain an archival copy of all pleadings, motions papers, trial, deposition and
24 hearing transcripts, legal memoranda , correspondence, deposition and trial
25 exhibits, expert reports, attorney work product and consultant and expert work
26 product, even if such material contain Protected Material. Any such archival
27 copies that contain or constitute Protected Material remain subject to this
28 Protective Order as set forth in Section 5 (DURATION).

1 15. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or
3 monetary sanctions.

4
5 IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

6
7 DATED: 9/7/2017

8 s/ Patricia Van Dyke

9 LEARNING RIGHTS LAW CENTER

10 Attorneys for Plaintiff

11
12 DATED: 9/7/2017

13 s/ Sydney J. Blaauw

14 HARBOTTLE LAW GROUP

15 Attorneys for Defendant

16
17 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

18
19 DATED: September 7, 2017

20 *Patrick J. Walsh*

21 _____
22 Patrick J. Walsh

23 U.S. Magistrate Judge
24
25
26
27
28

1
2 EXHIBIT A

3 ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

4 I, _____[print or type full name], of
5 _____[print or type full address], declare
6 under penalty of perjury that I have read in its entirety and understand the
7 Stipulated Protective Order that was issued by the United States District Court in
8 *S. A., by and through his guardian ad litem, Lisa Trifilleti v. Hacienda La Puente*
9 *Unified School District*, Case No.: 2:17-CV-02759-BRO-PJW (C. D. CA). I agree
10 to comply with and to be bound by all the terms of this Stipulated Protective
11 Order and I understand and acknowledge that failure to so comply could expose
12 me to sanctions and punishment in the nature of contempt. I solemnly promise
13 that I will not disclose in any manner any information or item that is subject to this
14 Stipulated Protective Order to any person or entity except in strict compliance
15 with the provisions of this Order. I further agree to submit to the jurisdiction of
16 the United States District Court for the Central District of California for the
17 purpose of enforcing the terms of this Stipulated Protective Order, even if such
18 enforcement proceedings occur after termination of this action. I hereby appoint
19 _____ [print or type full name] of
20 _____ [print or type full address
21 and telephone number] as my California agent for service of process in connection
22 with any action or any proceedings related to enforcement of this Stipulated
23 Protective Order.

24 Date: _____

25 City and State where sworn and signed: _____

26
27 Printed name: _____

28 Signature: _____