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12 UNITED STATES DISTRICT COURT  
 13 EASTERN DISTRICT OF CALIFORNIA  
 14

15 Rosedale Union School District,  
 16 Plaintiff,  
 17 v.  
 18 J.F., a minor, by and through his parents,  
 Bradley Feige and Jennifer Feige,  
 19 Defendants.  
 20

Case No. 1:16-cv-00147-JLT

**[PROPOSED] ORDER GRANTING  
 JOINT REQUEST TO SEAL  
 SETTLEMENT AGREEMENT AND  
 RELEASE ATTACHED AS EXHIBIT 1  
 TO JOINT APPLICATION TO VACATE  
 DATES**

21 AND RELATED CROSS-ACTION

22 Having considered the Joint Request to Seal the Settlement Agreement in the  
 23 above-captioned matter, IT IS HEREBY ORDERED that the Settlement Agreement and  
 24 Release Attached as Exhibit 1 to Joint Application to Vacate Dates in this matter be  
 25 sealed.

26 **IT IS SO ORDERED:**

27 Dated: 8/16/16

  
 28 **HONORABLE JENNIFER L. THURSTON**  
 Magistrate Judge of the United States District  
 Court for the Eastern District of California

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1:16-cv-00147 JLT

Proposed Order Granting Joint Request  
 to Seal Settlement Agreement

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20 Rosedale Union School District,  
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**JOINT REQUEST TO SEAL  
SETTLEMENT AGREEMENT AND  
RELEASE ATTACHED AS EXHIBIT 1  
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26 AND RELATED CROSS-ACTION

27 **TO THE HONORABLE COURT:**

28 Pursuant to Local Rule 141, the parties jointly move for an order directing the clerk to file under seal the Settlement Agreement and Release (Agreement") attached as Exhibit 1 to the Joint Application to Vacate Dates filed in the above-referenced matter on August 12, 2016. This matter is in regard to a child with multiple disabilities who is

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1 protected under the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400, et  
2 seq.), the Family Educational and Privacy Rights Act (20 U.S.C. § 1232g; 34 C.F.R.  
3 300.623), and the California Education Code (Cal. Educ. Code § 49076) from disclosure  
4 about his disabilities and any and all aspects of his education.

5 The Ninth Circuit has comprehensively examined the common law right of public  
6 access to judicial files and records. (See *Kamakana v. City and County of Honolulu*, 447  
7 F.3d 1172 (9th Cir. 2006).) In *Kamakana*, the court recognized that different interests are  
8 at stake in preserving the secrecy of materials produced during discovery, and materials  
9 produced or presented in relation to dispositive motions. (*Id.* at 1180-81.) According to  
10 the court, two standards apply to account for these interests when evaluating requests to  
11 seal such materials. A party seeking to seal “private materials unearthed during  
12 discovery,” or to maintain the sealing of such materials when attached to non-dispositive  
13 motions, need only demonstrate “good cause” to justify sealing. (*Pintos v. Pac. Creditors*  
14 *Ass’n.*, 605 F.3d 665, 678 (9th Cir. 2010).)

15 A party must demonstrate “compelling reasons” to seal judicial records attached to  
16 a dispositive motion. (*Kamakana*, 447 F.3d at 1179.) Here, the compelling reason is that  
17 the child about whom the litigation concerns was only three years of age during the  
18 litigation, has multiple disabilities and is entitled to have his educational and health  
19 records (which include extensive information about his disabilities) remain private. These  
20 are compelling reasons to keep the Agreement, which references Student’s medical  
21 condition, under seal. (See *Kamakana*, 447 F.3d at 1178-1180; *M.P. ex rel. Provins v.*  
22 *Lowe’s Companies, Inc.*, 2012 U.S. Dist. Lexis 62338 (E.D. Cal. May 3, 2012).) The  
23 compelling reasons must outweigh the competing interests of the public in having access  
24 to the judicial records and understanding the judicial process. (*Kamakana*, 447 F.3d at  
25 1178-79; see also *Pintos*, 605 F.3d at 679 and n. 6 (a court must weigh “relevant factors,”  
26 including the public’s interest in understanding the judicial process).) The Ninth Circuit  
27 has indicated that “‘compelling reasons’ sufficient to outweigh the public’s interest in  
28 disclosure and justify sealing court records exist when such ‘court files might have

1 become a vehicle for improper purpose,' such as the use of records to gratify private  
2 spite and prompt public scandal. . ." (*Kamakana*, 447 F.3d at 1179.)

3 In this matter, the Agreement has the Student's name and personally identifying  
4 information on such document, including reference to his medical condition. Additionally,  
5 the Agreement which was filed as Exhibit 1 to the Joint Application to Vacate Dates had  
6 information about Student's health, his intellectual functioning, his physical functioning,  
7 his disabilities, as well as other personally private information. In fact, the entirety of the  
8 proceedings before this Court is in regard to whether the child's vision necessitates the  
9 need for vision therapy to assist the child with his education.

10 Both parties request that the court, upon review of the Agreement, find that it be  
11 sealed. Neither party is aware of a need for public access to this child's health, education  
12 and personal information. In this situation, there is an interest in keeping this child's  
13 personal information private. Both parties believe that any right to public access to these  
14 documents is outweighed by the child's private interests under the IDEA, FERPA and the  
15 California Education Code. Public disclosure here would undermine the confidential  
16 nature of J.F.'s personal records and his identifiable information and it would provide  
17 access to the public when that is typically not allowed under the law. Both parties believe  
18 that the final decision by this court in this matter will be sanitized and only the child's  
19 initials, J.F., will be used and, therefore, the interest to the public as to the outcome of the  
20 matter will be known to the public at that time. Both parties assert that the balance of  
21 interests tips in the favor of sealing the Agreement. Both parties request that the Court  
22 find that there is a compelling reason to allow the Agreement to be filed under seal.

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The parties respectfully request that the Agreement in this matter be sealed.

Dated: August 15, 2016

SCHOOLS LEGAL SERVICE

*Kyle W. Holmes*

By: \_\_\_\_\_

**KYLE W. HOLMES**

Attorneys for Plaintiff/Counter-Defendant  
Rosedale Union School District

Dated: August 15, 2016

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*Diane B. Weissburg*

By: \_\_\_\_\_

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Claimants J.F., a minor, by and through  
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Feige