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Morgan Hill Concerned Parents Association v. California Department of Education

Case Number: 2:2011cv03471

Memorandum on Protocol and Budget for Special Master

Further to discussions with both parties and the submission of references, and further to the discussion with Judge Mueller on May 19, 2015, I set out below a draft protocol and budget for my proposed role as Special Master in the above case, and subject to the limited role proposed by Judge Mueller.

1. In advance of meetings, Special Master to review:

- 1) Discovery Requests and Discovery Responses to date
- 2) Parties to produce an updated Joint Statement of Disputed Discovery Issues
- 3) Joint Report dated January 16, 2015
- 4) To extent Joint Report does not clarify – each party to explain how technical experts identified intend to assist with identification and searching of data, and what tools they intend to use for searching/ verification/ production

2. First meeting with all parties to introduce Special Master and role

3. Separate meetings with each party and their experts to determine:

California DOE

- 1) How DOE is determining the size and extent of evidence (e.g. their databases)
- 2) DOE to explain how it intends to respond to Plaintiff's discovery requests e.g. search (use of proprietary/ third party tools), export and produce data, redaction/ anonymize data to protect student privacy (e.g. why DOE maintains that manual searching/ redaction is necessary)
- 3) DOE to explain what experts/ internal resources it has to carry out searching/ production, what tests have been carried out to see if such searching is practical
- 4) The protocols that have been identified/ chosen by the DOE in this case for data masking/ anonymization/ sanitization – and the reasoning for the decision

Plaintiffs

- 1) How Plaintiffs intend to search the data provided by DOE and why productions (actual or proposed) to date have been insufficient

- 2) The extent to which anonymization of data will hinder the goals of Plaintiffs – i.e. what specific data elements are necessary, and whether they can partially obscured rather than fully redacted
- 3) How Plaintiffs are formulating their searches (e.g. what outside expertise/ knowledge they have of the specific DOE databases)
- 4) After each separate meeting, parties may be requested to submit written confidential responses to the Special Master answering issues identified

4. Special Master to review written submissions re. Phase 3 above

5. Special Master to host Meet and Confer – goals to be:

- 1) Allow parties to be confident that searching will be carried out correctly (i.e. DOE understands its databases and is carrying out a reasonable search protocol given any technical limitations)
- 2) That the anonymization of data to protect student privacy can be carried out in a manner that balances the different interests, yet is also efficient, and utilizes best practices/ current protocols and methodologies
- 3) Develop a protocol for searching databases/ evidence in sources that would be reflected in a negotiated order agreed by parties
- 4) Develop a protocol for production of data from databases that would be reflected in a negotiated order agreed by parties (e.g. formalizing current parties' agreement that "defendant will produce any and all data and information in the format in which they originally exist in defendant's databases and defendant's electronic storage systems")

Budget

Phases 1 - 5 35 hours @ \$350

The above budget is a best estimate, assuming telephone attendance only. If in-person attendance is required, a separate budget will be provided. The Special Master would report to the Court if it appears that additional budget will be required.

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