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20 HAWKINS

21 UNITED STATES DISTRICT COURT

22 EASTERN DISTRICT OF CALIFORNIA

23 ALICIA WAGNON in her individual capacity
24 and as conservator for SULLIVAN R. FROM,

25 Plaintiff,

26 v.

27 ROCKLIN UNIFIED SCHOOL DISTRICT,
28 PLACER COUNTY OFFICE OF
EDUCATION, DAVID HAWKINS, and
DOES 1-30,

Defendants.

CASE NO.: 2:17-CV-01666-TLN-KJN

STIPULATED PROTECTIVE ORDER

Action Filed: August 11, 2017
Trial: Not Yet Set

1 IT IS HEREBY STIPULATED by and between Plaintiff ALICIA WAGNON
2 in her individual capacity and as conservator for Plaintiff Sullivan R. From (S.R.F.),
3 a dependent adult, and Defendants ROCKLIN UNIFIED SCHOOL DISTRICT,
4 PLACER COUNTY OFFICE OF EDUCATION, and DAVID HAWKINS
5 (collectively the “Parties”), by and through their respective counsel of record, that in
6 order to facilitate the exchange of information and documents which may be subject
7 to confidentiality limitations on disclosure due to federal laws, state laws, and privacy
8 rights, the Parties Stipulate as follows:

9 **1. PURPOSES AND LIMITATIONS**

10 Discovery in this action is likely to involve production of confidential,
11 proprietary, or private information for which special protection from public
12 disclosure and from use for any purpose other than prosecuting this litigation may be
13 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter
14 the following Stipulated Protective Order. The parties acknowledge that this Order
15 does not confer blanket protections on all disclosures or responses to discovery and
16 that the protection it affords from public disclosure and use extends only to the
17 limited information or items that are entitled to confidential treatment under the
18 applicable legal principles. The parties further acknowledge, as set forth in Section
19 12.3, below, that this Stipulated Protective Order does not entitle them to file
20 confidential information under seal; Eastern District Civil Local Rule 141 sets forth
21 the procedures that must be followed and the standards that will be applied when a
22 party seeks permission from the court to file material under seal.

23 **2. GOOD CAUSE STATEMENT**

24 This action is likely to involve medical information and student records for
25 which special protection from public disclosure and from use for any purpose other
26 than prosecution of this action is warranted. Accordingly, to expedite the flow of
27 information, to facilitate the prompt resolution of disputes over confidentiality of
28 discovery materials, to adequately protect information the parties are entitled to keep

1 confidential, to ensure that the parties are permitted reasonable necessary uses of such
2 material in preparation for and in the conduct of trial, to address their handling at the
3 end of the litigation, and serve the ends of justice, a protective order for such
4 information is justified in this matter. It is the intent of the parties that information
5 will not be designated as confidential for tactical reasons and that nothing be so
6 designated without a good faith belief that it has been maintained in a confidential,
7 non-public manner, and there is good cause why it should not be part of the public
8 record of this case.

9 **3. DEFINITIONS**

10 3.1 Action: *Wagnon, et al. v. Rocklin Unified School District, et al.*,
11 Eastern District Case No. 2:17-CV-01666-TLN-KJN

12 3.2 Challenging Party: A Party or Non-Party that challenges the
13 designation of information or items under this Order.

14 3.3 “CONFIDENTIAL” Information or Items: Information (regardless of
15 how it is generated, stored or maintained) or tangible things that qualify for protection
16 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
17 Cause Statement.

18 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as
19 their support staff).

20 3.5 Designating Party: A Party or Non-Party that designates information or
21 items that it produces in disclosures or in responses to discovery as
22 “CONFIDENTIAL.”

23 3.6 Disclosure or Discovery Material: All items or information, regardless
24 of the medium or manner in which it is generated, stored, or maintained (including,
25 among other things, testimony, transcripts, and tangible things), that are produced or
26 generated in disclosures or responses to discovery in this matter.

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1 3.7 Expert: A person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 3.8 House Counsel: Attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 3.9 Non-Party: Any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 3.10 Outside Counsel of Record: Attorneys who are not employees of a party
10 to this Action but are retained to represent or advise a party to this Action and have
11 appeared in this Action on behalf of that party or are affiliated with a law firm which
12 has appeared on behalf of that party, and includes support staff.

13 3.11 Party: Any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 3.12 Producing Party: A Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 3.13 Professional Vendors: Persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 3.14 Protected Material: Any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL.”

24 3.15 Receiving Party: A Party that receives Disclosure or Discovery Material
25 from a Producing Party.

26 **4. SCOPE**

27 The protections conferred by this Stipulation and Order cover not only
28 Protected Material (as defined above), but also (1) any information copied or

1 extracted from Protected Material; (2) all copies, excerpts, summaries, or
2 compilations of Protected Material; and (3) any testimony, conversations, or
3 presentations by Parties or their Counsel that might reveal Protected Material.

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

6 **5. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees
9 otherwise in writing or a court order otherwise directs. Final disposition shall be
10 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
11 or without prejudice; and (2) final judgment herein after the completion and
12 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
13 including the time limits for filing any motions or applications for extension of time
14 pursuant to applicable law.

15 **6. DESIGNATING PROTECTED MATERIAL**

16 6.1 Exercise of Restraint and Care in Designating Material for Protection.

17 Each Party or Non-Party that designates information or items for protection under
18 this Order must take care to limit any such designation to specific material that
19 qualifies under the appropriate standards. The Designating Party must designate for
20 protection only those parts of material, documents, items, or oral or written
21 communications that qualify so that other portions of the material, documents, items,
22 or communications for which protection is not warranted are not swept unjustifiably
23 within the ambit of this Order.

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

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

4 6.2 Manner and Timing of Designations. Except as otherwise provided in
5 this Order, or as otherwise stipulated or ordered, Disclosure or Discovery Material
6 that qualifies for protection under this Order must be clearly so designated before the
7 material is disclosed or produced.

8 Designation in conformity with this Order requires:

9 (a) for information in documentary form (e.g., paper or electronic
10 documents, but excluding transcripts of depositions or other pretrial or trial
11 proceedings), that the Producing Party affix at a minimum, the legend
12 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
13 contains protected material. If only a portion or portions of the material on a page
14 qualifies for protection, the Producing Party also must clearly identify the protected
15 portion(s) (e.g., by making appropriate markings in the margins).

16 A Party or Non-Party that makes original documents available for inspection
17 need not designate them for protection until after the inspecting Party has indicated
18 which documents it would like copied and produced. During the inspection and
19 before the designation, all of the material made available for inspection shall be
20 deemed "CONFIDENTIAL." After the inspecting Party has identified the
21 documents it wants copied and produced, the Producing Party must determine which
22 documents, or portions thereof, qualify for protection under this Order. Then, before
23 producing the specified documents, the Producing Party must affix the
24 "CONFIDENTIAL legend" to each page that contains Protected Material. If only a
25 portion or portions of the material on a page qualifies for protection, the Producing
26 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
27 markings in the margins).

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1 (b) for testimony given in depositions that the Designating Party identify
2 the Disclosure or Discovery Material on the record, before the close of the deposition
3 all protected testimony.

4 (c) for information produced in some form other than documentary and
5 for any other tangible items, that the Producing Party affix in a prominent place on
6 the exterior of the container or containers in which the information is stored the
7 legend "CONFIDENTIAL." If only a portion or portions of the information warrants
8 protection, the Producing Party, to the extent practicable, shall identify the protected
9 portion(s).

10 6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
11 failure to designate qualified information or items does not, standing alone, waive
12 the Designating Party's right to secure protection under this Order for such material.
13 Upon timely correction of a designation, the Receiving Party must make reasonable
14 efforts to assure that the material is treated in accordance with the provisions of this
15 Order.

16 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

17 7.1 Timing of Challenges. Any Party or Non-Party may challenge a
18 designation of confidentiality at any time that is consistent with the Court's
19 Scheduling Order.

20 7.2 The burden of persuasion in any such challenge proceeding shall be on
21 the Designating Party. Frivolous challenges, and those made for an improper purpose
22 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
23 expose the Challenging Party to sanctions. Unless the Designating Party has waived
24 or withdrawn the confidentiality designation, all parties shall continue to afford the
25 material in question the level of protection to which it is entitled under the Producing
26 Party's designation until the Court rules on the challenge.

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1 **8. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 8.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of section 14 below (FINAL
8 DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 “CONFIDENTIAL” only to:

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

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

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

24 (d) the court and its personnel;

25 (e) court reporters and their staff;

26 (f) professional jury or trial consultants, mock jurors, and Professional
27 Vendors to whom disclosure is reasonably necessary for this Action and who have
28 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

3 (h) any mediator or settlement officer, and their supporting personnel,
4 mutually agreed upon by any of the parties engaged in settlement discussions.

5 **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
6 **PRODUCED IN OTHER LITIGATION**

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

10 (a) promptly notify in writing the Designating Party. Such notification
11 shall include a copy of the subpoena or court order;

12 (b) promptly notify in writing the party who caused the subpoena or
13 order to issue in the other litigation that some or all of the material covered by the
14 subpoena or order is subject to this Protective Order. Such notification shall include
15 a copy of this Stipulated Protective Order; and

16 (c) cooperate with respect to all reasonable procedures sought to be
17 pursued by the Designating Party whose Protected Material may be affected.

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

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

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

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

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

15 (2) promptly provide the Non-Party with a copy of the Stipulated
16 Protective Order in this Action, the relevant discovery request(s), and a reasonably
17 specific description of the information requested; and

18 (3) make the information requested available for inspection by the
19 Non-Party, if requested.

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

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1 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

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

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

22 **13. MISCELLANEOUS**

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

25 13.2 Right to Assert Other Objections. By stipulating to the entry of this
26 Protective Order no Party waives any right it otherwise would have to object to
27 disclosing or producing any information or item on any ground not addressed in this

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1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
2 ground to use in evidence of any of the material covered by this Protective Order.

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

9 **14. FINAL DISPOSITION**

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

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

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5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6
7 DATED: November 6, 2019 MEDINA McKELVEY LLP

8
9 */s/ Allison S. Hyatt*

10 ALLISON S. HYATT
11 Attorneys for Plaintiff ALICIA WAGNON
12 in her individual capacity and as conservator for
13 Plaintiff SULLIVAN R. FROM


14 DATED: November 6, 2019 EVANS, WIECKOWSKI, WARD &
15 SCOFFIELD, LLP

16 */s/ Carol Weickowski (as authorized on 11/6/19)*

17 CAROL WEICKOWSKI
18 Attorneys for Defendants ROCKLIN UNIFIED
19 SCHOOL DISTRICT, PLACER COUNTY
20 OFFICE OF EDUCATION, and DAVID
21 HAWKINS

22 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

23 Dated: November 8, 2019

24 
25 KENDALL J. NEWMAN
26 UNITED STATES MAGISTRATE JUDGE

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3
4 I, _____ [print or type full name], of
5 _____ [print or type full address], declare under penalty of perjury
6 that I have read in its entirety and understand the Stipulated Protective Order that was
7 issued by the United States District Court for the Eastern District of California on
8 [date] in the case of _____ *Wagnon, et al. v. Rocklin Unified School District,*
9 *et al.*, Eastern District Case No. 2:17-CV-01666-TLN-KJN. I agree to comply with
10 and to be bound by all the terms of this Stipulated Protective Order and I understand
11 and acknowledge that failure to so comply could expose me to sanctions and
12 punishment in the nature of contempt. I solemnly promise that I will not disclose in
13 any manner any information or item that is subject to this Stipulated Protective Order
14 to any person or entity except in strict compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [print
19 or type full name] of _____ [print or type
20 full address and telephone number] as my California agent for service of process in
21 connection with this action or any proceedings related to enforcement of this
22 Stipulated Protective Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26
27 Signature: _____

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