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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11	PETER BENKO and DANIEL CRUZ,)	Case No.: CV-10-04943 JCS
)	
12	Plaintiff,)	STIPULATION REGARDING
	vs.)	CONFIDENTIALITY OF DOCUMENTS;
13)	[PROPOSED] ORDER THEREON
14	CONTRA COSTA COMMUNITY COLLEGE)	
	DISTRICT,)	
15	Defendant.)	
16)	

17 The parties to the above-entitled action, by and through their counsel of record, hereby
 18 stipulate as follows:

19 1. PURPOSES AND LIMITATIONS

20 Disclosure and discovery activity in this action are likely to involve production of
 21 confidential, proprietary, or private information for which special protection from public disclosure
 22 and from use for any purpose other than prosecuting this litigation would be warranted. Accordingly,
 23 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
 24 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures
 25 or responses to discovery and that the protection it affords extends only to the limited information or
 26 items that are entitled under the applicable legal principles to treatment as confidential. The parties
 27 further acknowledge, as set forth in Section 10, below, that this Stipulated Protective Order creates no
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1 entitlement to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
2 that must be followed and reflects the standards that will be applied when a party seeks permission
3 from the court to file material under seal.

4 The materials included in the above-mentioned stipulation are as follows:

- 5 a. Employee records relating to the Physical Education Department;
- 6 b. Student complaints against plaintiff CRUZ;
- 7 c. Other materials that the parties agree in writing are to be covered by this
8 Stipulation.

9 All "confidential material" shall be designated by stamping or otherwise marking each such
10 document as follows: "**CONFIDENTIAL**"

11 2. Confidential material shall be used solely in connection with the preparation and
12 litigation of the case in the within action (CV-10-04943 JCS) or in any related appellate proceeding,
13 and not for any other purpose, including any other litigation, without the express approval of the
14 opposing party or Court Order.

15 3. Confidential material may not be disclosed, except as is provided in paragraph 4,
16 below.

17 4. Confidential material may be disclosed only to the following persons: (a) parties and
18 counsel for any party to this litigation; (b) paralegal, stenographic, clerical, and secretarial personnel
19 regularly employed by counsel for the parties in this litigation; (c) court personnel, including
20 stenographic reporters engaged in such proceedings as are necessarily incidental to preparation for
21 trial in this action; (d) any outside expert or consultant retained by any party to the action in
22 connection with the action, and not otherwise employed by either party; (e) any "in-house" expert
23 designated by any party to testify at trial in this matter; and (f) during their depositions, witnesses in
24 the action to whom disclosure is reasonably necessary. Pages of transcribed deposition testimony or
25 exhibits to depositions that reveal Protected Material must be separately bound by the court reporter
26 and may not be disclosed to anyone except as permitted under this Stipulated Protective Order

27 Nothing in this paragraph (4) is intended to prevent officials or employees of the DISTRICT,
28 or other authorized government officials, from having access to the documents so designated if they

1 would have such access in the normal course of their job duties. Furthermore, nothing herein
2 prevents any witness from disclosing events or activities personal to him or her, that is, a witness may
3 disclose to others, without restriction under this order, information previously given to the DISTRICT
4 with respect to what he or she saw, heard, or otherwise sensed.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
7 Party or non-party that designates information or items for protection under this Order must take care
8 to limit any such designation to specific material that qualifies under the appropriate standards. A
9 Designating Party must take care to designate for protection only those parts of material, documents,
10 items, or oral or written communications that qualify – so that other portions of the material,
11 documents, items, or communications for which protection is not warranted are not swept
12 unjustifiably within the ambit of this Order.

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

17 If it comes to a Party's or a non-party's attention that information or items that it designated
18 for protection do not qualify for protection at all, or do not qualify for the level of protection initially
19 asserted, that Party or non-party must promptly notify all other parties that it is withdrawing the
20 mistaken designation

21 6. Each person to whom disclosure is made, with the exception of counsel, who are
22 presumed to know the contents of this protective order, shall be provided by the person furnishing
23 him or her "confidential material," as designated hereunder, with a copy of this stipulation, and shall
24 agree on the record, or in writing, that he or she has read this stipulation and consents to it. Unless
25 such agreement is made on the record in this litigation, counsel making the disclosure to any person
26 described above shall retain the original executed copy of said written agreement until final
27 termination of this litigation.

1 Any refusal to consent to this stipulation by a witness in the context of a deposition or at trial
2 shall not prevent any attorney from disclosing the material or information at issue to that witness at
3 deposition or at trial. However, no copies of documents containing confidential material shall be
4 provided to any person who refuses to consent to this stipulation.

5 7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6 7.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
7 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
8 economic burdens, or a later significant disruption or delay of the litigation, a Party does not waive its
9 right to challenge a confidentiality designation by electing not to mount a challenge promptly after
10 the original designation is disclosed.

11 7.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
12 Party's confidentiality designation must do so in good faith and must begin the process by conferring
13 directly with counsel for the Designating Party. In conferring, the challenging Party must explain the
14 basis for its belief that the confidentiality designation was not proper and must give the Designating
15 Party an opportunity to review the designated material, to reconsider the circumstances, and, if no
16 change in designation is offered, to explain the basis for the chosen designation. The next stage of
17 the challenge process may proceed only if the parties have engaged in this meet and confer process
18 first.

19 7.3 Judicial Intervention. If the parties' meet and confer efforts do not resolve
20 any dispute regarding the confidential designation of material pursuant to this Order, the parties agree
21 to jointly submit the matter to the court for determination within 10 court days of the conclusion of
22 meet and confer discussions pursuant to paragraph 6.2. The Designating Party shall provide a first
23 draft of the joint submission to the challenging Party within five (5) court days of the conclusion of
24 meet and confer discussions pursuant to paragraph 6.2.

25 The burden of persuasion in any such challenge proceeding shall be on the Designating Party.
26 Until the court rules on the challenge, all parties shall continue to afford the material in question the
27 level of protection to which it is entitled under the Producing Party's designation.

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