

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LESLIE, ERIC DANIEL, JAVY JUNIOR AND)
JOSELYN DELGADO, minors, by their parent)
and next friend, Erika Delgado; ANDIE, LIZA,)
MARIBEL, AND MABEL GARCIA, minors, by)
their parent and next friend, Maria Garcia;)
DEONTE, DANIELLE, DANIEL, DINAH,) No. 05 C 0760
AND DEANNA McFADDEN, minors, by their)
parent and next friend, Tracy McFadden;) Magistrate Judge Michael T. Mason
KAREN, RODOLFO AND KIARA TAPIA,)
minors, by their parent and next friend,) Judge Robert W. Gettleman
Marielena Montoya,)
)
Plaintiffs,)
)
v.)
)
BOARD OF EDUCATION FOR ILLINOIS)
SCHOOL DISTRICT U-46,)
)
Defendant.)

MOTION FOR PROTECTIVE ORDER

Plaintiffs, Deonte, Danielle, Daniel, Dinah, and Deanna Mcfadden, minors, by their parent and next friend, Tracy McFadden; Karen, Rodolfo and Kiara Tapia, minors, by their parent and next friend, Marielena Montoya, by and through their attorneys, Futterman & Howard, Chtd., respectfully move this Court for entry of the attached Proposed Protective Order limiting the use of information produced and/or gathered in the course of this lawsuit. In support, thereof Plaintiffs state as follows:

1. Federal Rule of Civil Procedure 26(c) permits the Court, "for good cause shown," to make "any order which justice requires to protect a party or person from annoyance,

embarrassment, oppression, or undue burden or expense.” Such an Order can include, but is not limited to, instructions that disclosure or discovery may be had only on specified terms and conditions (Fed. R. Civ. P. 26(c)(2)), and that “a deposition, after being sealed, be opened only by order of the court” (Fed. R. Civ. P. 26(c)(6)).

2. In addition, the Family Education Rights and Privacy Act (“FERPA”), 20 U.S.C. §1232g, 34 C.F.R. Part 99, protects the privacy of student education records, limiting their exposure or release to third parties without the express written consent of parents (or so-called “eligible students” who have reached the age of 18.)

3. Plaintiffs have alleged racial disparity in the treatment of Hispanic and African American students by Defendant, the Board of Education for Illinois School District U-46.

4. Discovery in this case will involve the release of confidential student education records protected by FERPA.

5. Discovery in this case may also involve the release of confidential information about students’ parents and next friends. The disclosure of such information, not relevant to the action, may constitute annoyance, embarrassment, and/or oppression, as those terms are contemplated in the Federal Rules of Civil Procedure.

6. Plaintiffs wish to comply with the liberal discovery standards of the Federal Rules of Civil Procedure, but also wish to protect the privacy of their clients’ protected educational records as well as other confidential information that may arise during discovery during the course of this litigation.

7. A copy of the proposed order has been shared with defense counsel. Although they believe such an order is not necessary, they have no basis to object to the language at this

time.

8. Therefore, Plaintiffs request that this Court enter the draft Proposed Protective Order, allowing either party to designate documents “Confidential,” and prescribing treatment of such documents in the course of this litigation.

WHEREFORE, for the reasons set forth above, Plaintiffs request that this Court enter the Protective Order.

Respectfully submitted,

s/ Carol R. Ashley
One of Plaintiffs' Attorneys

Date: October 21, 2005

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she caused a copy of the foregoing **MOTION FOR PROTECTIVE ORDER** and **NOTICE OF MOTION** to be served October 21, 2005, upon the following counsel of record by electronic mail and messenger delivery on:

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s/ Carol R. Ashley
One of Plaintiffs' Attorneys