

LAWRENCE DUMOND,

Plaintiff,

-against-

ELLENVILLE CENTRAL SCHOOL DISTRICT,
BOARD OF EDUCATION OF THE ELLENVILLE
CENTRAL SCHOOL DISTRICT, JOHN AND JANE
DOE 1-30, teachers, supervisors, and employees, in their
official and individual capacities, whose identities
are presently unknown to Plaintiff,

Defendants.

**CONFIDENTIALITY
STIPULATION AND
PROTECTIVE ORDER**

Index No.: EF2021-949

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and Defendants, through their respective counsel and subject to the approval of this Court, that the following Confidentiality Stipulation and Protective Order shall be entered in this action. This Order shall govern the production of documents from Defendants to Plaintiff:

1. **Discovery Materials.** This Stipulation and Protective Order applies to all products of discovery and all information derived therefrom, including, but not limited to, all school records, documents and deposition testimony and any copies, excerpts or summaries thereof, as well as the contents of any and all personnel files ("Discovery Materials"), obtained by any party pursuant to the requirements of any court order, requests for production of documents, requests for admissions, interrogatories or subpoenas.

2. **School Records.** This Stipulation and Protective Order further applies to any and all production of Defendants' student school records, incident reports, disciplinary records, directory information and all information derived therefrom, including but not limited to, the specific production of documents provided for by Defendants' responses to any of Plaintiff's discovery demands.

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3. **Identification of Confidential Discovery Materials.** All Discovery Materials that contain personal information of a confidential nature as determined by statute, rule or regulation including, but not limited to, student names, addresses, telephone numbers, contact information, dates of birth, disciplinary records, education records, personnel/employment records, personal and/or medical records may in good faith be identified as “Confidential” by the producing party and shall be subject to the provision of this Stipulation and Protective Order. Such designation will take place prior to production by the producing person, or subsequent to selection by the receiving party for copying by prior to the actual copying. Confidential Discovery Materials shall be used solely for the purposes of this litigation and for no other purpose without the prior written approval from the Court or the prior written consent of the producing party or the involved individual whose confidential information is at issue.

4. Subject to the provisions of paragraph “3” of this Protective Order, disclosure of any Confidential Discovery Materials shall be limited to:

- a. the Court, including any appellate court, and its staff;
- b. any mediator, arbitrator, referee, or special master that the parties agree to or that this Court appoints;
- c. “counsel,” which includes Plaintiff’s counsel and Defendants’ counsel and their office attorneys, legal assistants, investigators and clerical staffs or any other individual acting as an agent of the aforementioned;
- d. persons shown on the face of the document to have authored or received it, fact witnesses or the individual whose information is the subject of the material;
- e. court reporters and videographers retained to transcribe testimony;
- f. the parties;
- g. retained experts or vendors, and their employed personnel, who are expressly

retained by or on behalf of any party to provide assistance or testimony with respect to the underlying litigation; and

- h. any potential witness in this Litigation, including but not limited to at deposition or trial.

5. **Challenging Confidential Designation.** Counsel for a party to whom Confidential Discovery Materials are being produced may challenge the “Confidential” designation made by the producing party by first requesting a “meet and confer” with the producing party in an attempt to amicably resolve the challenge. Such request for a “meet and confer” will be made through written notice served upon the producing party which identifies the challenged designated information and the factual and legal basis for the challenge. Such “meet and confer” shall take place within seven (7) business days of receipt of the challenge and resolved within two (2) business days thereafter. Failure of the producing party to abide by these deadlines operates to remove the “Confidential” designation. In the event an agreement cannot be reached, the proponent of confidentiality shall apply by motion for a ruling as to whether the designated discovery material may, in accordance with this Order, be treated as confidential. This motion shall be made within ten (10) days from the date on which the parties, after good faith attempt, agree that they cannot resolve the dispute or such other time period agreed to by the parties. The party seeking to maintain the materials as “Confidential” shall have the burden of proof on such motion to establish the propriety of its confidential designation. The Discovery Materials designated “Confidential” shall continue to be treated as such and subject to the provisions of this Confidentiality Stipulation and Protective Order pending determination by the Court of the merits of any such motion. In the event that the Court enters an order that particular Discovery Materials are not entitled to the designation “Confidential”, the Discovery Materials shall nevertheless continue to be treated as “Confidential” and subject to the terms of this Confidentiality Stipulation and Protective Order for

thirty (30) days following the service of Notice of Entry of such order to enable the producing party to seek review and a stay of such order.

6. Disclosure of Confidential Discovery Material.

a. The disclosure of the Discovery Materials designated as “Confidential” by counsel for a party to the Litigation to legal assistants, paralegals and clerical staff, investigators or others employed as agents of the disclosing counsel and the Court is allowed under the terms of this Stipulation and Protective Order without limitation and without the need to execute an Affidavit. Such disclosure shall not constitute a violation or a waiver of the protections afforded by the Confidentiality Stipulation and Protective Order. Said assistants, paralegals and clerical staff, investigators or others employed as agents of the disclosing counsel, are bound by this Order to the same extent as the parties and attorneys are bound.

b. Disclosure by counsel for a party in the Litigation to any of the other individuals/entities identified in sections 4.c-h of Discovery Materials designated as “Confidential” by another party shall not constitute a violation or waiver of the protections afforded by this Confidentiality Stipulation and Protective Order to the extent that such disclosure is reasonably necessary to assist in the prosecution or defense of the Litigation.

7. Disclosure of Discovery Materials designated as “Confidential” other than in accordance with the terms of this Confidentiality Stipulation and Protective Order may subject the disclosing person to such sanctions and remedies as the Court may deem appropriate.

8. All persons receiving or given access to Discovery Materials designated as “Confidential” in accordance with the terms of this Confidentiality Stipulation and Protective Order consent to the continuing jurisdiction of this Court for the purposes of enforcing this Confidentiality Stipulation and Protective Order and remedying any violations thereof. All parties and their respective counsel, paralegals and the employees and assistants of all counsel, and experts

receiving Discovery Materials designated as “Confidential” shall take steps reasonably necessary to prevent the disclosure of Confidential Discovery Materials other than in accordance with the terms of this Confidentiality Stipulation and Protective Order.

9. This Order does not automatically seal court records in this case or apply to the disclosure of Confidential Discovery Material at trial. It is only intended to facilitate the prompt production of discovery materials. A party that seeks to file with this Court any material that contains, describes, identifies, discloses, discusses, refers to or attaches any Discovery Materials designated as “Confidential” shall file such Discovery Materials under seal in compliance with applicable law. Documents filed under seal with the Clerk of the Court shall be kept under seal until further order of the Court, so long as the Court permits, in a sealed envelope with information required by the Court as well as the following statement endorsed on it:

“Confidential.

This envelope contains documents that are subject to a Protective Order entered by the Court in this action governing the use of Confidential Discovery Material. All such material so filed shall be maintained by the Clerk of the Court separate from the public records in this action, and shall be released only upon further Order of the Court.”

10. The producing party of any Confidential Discovery Materials attached to or referenced in a document filed with the Court under seal may assent to the unsealing of the document at any juncture without waiving its assertion of confidentiality as to any other Discovery Materials.

11. Subject to the provisions of paragraph “6” of this Protective Order, nothing shall prevent disclosure beyond that required under this Confidentiality Stipulation and Protective Order if the producing party consents in writing to such disclosure, or if the Court, after notice to all

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