

1 DAVID LOY, Cal. Bar No. 229235
ANN CAPPETTA, Cal. Bar No. 354079
2 FIRST AMENDMENT COALITION
534 4th Street, Suite B
3 San Rafael, CA 94901-3334
Telephone: 415.460.5060
4 Email dloy@firstamendmentcoalition.org
acappetta@firstamendmentcoalition.org

ELECTRONICALLY FILED
Superior Court of California,
County of Solano
05/31/2024 at 08:10:05 AM
By: O. Camarena, Deputy Clerk

5 Attorneys for Intervenor HOLLY McDEDE

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SOLANO

11 MATTHEW SHELTON, an Individual,
12 Plaintiff,
13 v.
14 NAPA VALLEY UNIFIED SCHOOL
DISTRICT; BENECIA UNIFIED SCHOOL
15 DISTRICT; and DOES 1-25, inclusive,
16 Defendants.

Case No. CU24-03170

**DECLARATION OF HOLLY McDEDE IN
SUPPORT OF MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO PRELIMINARY
INJUNCTION**

17 HOLLY McDEDE,
18 Intervenor.

Date: June 11, 2024
Time: 1:30 p.m.
Dept.: 10

The Hon. Christine N. Donovan

20 I, HOLLY McDEDE, declare as follows:

- 21 1. I make this declaration based on personal knowledge, and if called as a witness I
- 22 could and would testify competently to the facts stated herein.
- 23 2. On March 8, 2024, I made requests under the California Public Records Act
- 24 (“CPRA”) to Napa Valley Unified School District and Benicia Unified School District
- 25 (collectively, “Districts”) for “all public records related to any and all claims of misconduct
- 26 against Matthew Joseph Shelton.”
- 27
- 28

1 3. A true and correct copy of the March 8 request to Napa Valley Unified School
2 District is attached hereto as Exhibit 1.

3 4. A true and correct copy of the March 8 request to Benicia Unified School District is
4 attached hereto as Exhibit 2.

5 5. On March 18, 2024, I made requests under the CPRA to each of the Districts for
6 any separation agreements and settlements with Shelton, all other records related to his
7 employment, and any reports of misconduct submitted to the Commission on Teacher
8 Credentialing regarding Shelton.

9 6. A true and correct copy of the March 18 request to Napa Valley Unified School
10 District is attached hereto as Exhibit 3.

11 7. A true and correct copy of the March 18 request to Benicia Unified School District
12 is attached hereto as Exhibit 4.

13 8. On March 26, 2024, Napa Valley Unified School District informed me in an email
14 that it had located “employment records” for Shelton and would “provide all files to you that are
15 not exempt,” with redactions for “confidential personal information (primarily his social security
16 number)” and “student names and identifying information.” The email said Napa Valley Unified
17 School District would follow its “normal protocol of notifying employees (including former
18 employees) that their personnel records will be produced within two weeks in order to give him an
19 opportunity to make an appropriate filing in Court to prevent disclosure if he objects to the
20 disclosure.” The email stated that Napa Valley Unified School District anticipated providing “all
21 disclosable records” to me “in approximately two weeks.” A true and correct copy of the March
22 26 email is attached hereto as Exhibit 5.

23 9. By letter dated March 18, 2024, Benicia Unified School District responded to my
24 March 8 CPRA request, stating “the District believes it has public records responsive to your
25 request” regarding “well-founded and substantial claims of misconduct against Matthew Joseph
26 Shelton.” The March 18 letter said the district “will segregate and/or redact privileged and/or
27 exempt information, including information which would identify individual students” in violation
28 of applicable laws. The March 18 letter stated, “As the records you seek may relate specifically to

1 complaints or allegations of employee misconduct, the District needs to provide advance
2 notification to Mr. Shelton prior to disclosure,” and to “provide Mr. Shelton with adequate notice
3 of his opportunity to challenge the release of such records, the District plans to provide you with
4 non-privileged, non-exempt public records responsive to your request beginning on or about **April**
5 **15, 2024.**” A true and correct copy of the March 18 letter is attached hereto as Exhibit 6.

6 10. By letter dated March 28, 2024, Benicia Unified School District responded to my
7 March 18 CPRA request. As to “separation agreements and settlements involving Matthew
8 Shelton,” the March 28 letter stated, “the District believes it has public records responsive to your
9 request.” As to “records of employment for Matthew Shelton,” the March 28 letter stated that most
10 of those documents “are exempt from disclosure as personnel records pursuant to Government
11 Code § 7927.700,” but “without waiving any exemptions, the District believes that it has public
12 records responsive to this request to the extent you are once again seeking employment records
13 relating to well-founded and substantial claims of misconduct against Matthew Shelton.” As to
14 “reports of educator misconduct submitted to the California Commission on Teacher Credentialing
15 concerning Matthew Shelton,” the March 28 letter stated that “without waiving any exemptions,
16 the District believes that it has public records responsive to your request.” The March 28 letter
17 said the district “will segregate and/or redact privileged and/or exempt information, including
18 information which would identify individual students” in violation of applicable laws. The March
19 28 letter stated, “As the records you seek may relate specifically to complaints or allegations of
20 employee misconduct, the District needs to provide advance notification to Mr. Shelton prior to
21 disclosure,” and to “provide Mr. Shelton with adequate notice of his opportunity to challenge the
22 release of such records, the District plans to provide you with non-privileged, non-exempt public
23 records responsive to your request beginning on or about **April 15, 2024.**” A true and correct copy
24 of the March 28 letter is attached hereto as Exhibit 7.

25 11. By letter dated April 10, 2024, Benicia Unified School District informed me that it
26 would “require additional time to provide you with non-privileged, non-exempt public records,”
27 due to “Mr. Shelton’s attorney informing the District of his intention to seek court intervention
28 barring the production of responsive documents.” The superintendent anticipated disclosing

1 “records responsive” to my request “on or before April 30, 2024.” A true and correct copy of the
2 April 10 letter is attached hereto as Exhibit 8.

3 12. On April 29, 2024, Napa Valley Unified School District informed me by email,
4 “As requested, here is an update on your PRA request concerning personnel records for Mathew
5 Shelton. The Napa Valley Unified School District received this notice of a complaint filed to
6 prevent our disclosure of records to you. Our legal counsel is currently reviewing it.” A true and
7 correct copy of the April 29 email is attached hereto as Exhibit 9.

8 13. By letter dated April 30, 2024, Benecia Unified School District informed me that
9 Shelton had filed an “application for a temporary restraining order barring the production of
10 responsive documents” that would be heard on May 1, and the “District will await the court’s
11 ruling prior to the release of responsive records.” A true and correct copy of the April 30 letter is
12 attached hereto as Exhibit 10.

13 14. By letter dated May 2, 2024, Benecia Unified School District informed me that this
14 Court granted “Shelton’s request for a temporary restraining order on May 1” prohibiting the
15 district “from disclosing non-privileged, non-exempt public records” responsive to her requests.
16 The letter noted that the Court had scheduled a hearing on June 11 and the “District will await the
17 court’s final ruling prior to the release of responsive records.” A true and correct copy of the May
18 2 letter is attached hereto as Exhibit 11.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct. Executed this 30th day of May 2024 at Oakland, California.

21
22
23
24
25
26
27
28

Holly McDeede

HOLLY McDEEDE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Marin, State of California. My business address is 534 4th Street, Suite B, San Rafael, CA 94901-3334.

On May 31, 2024, I served true copies of the following document(s) described as **DECLARATION OF HOLLY McDEDE IN SUPPORT OF MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PRELIMINARY INJUNCTION** on the interested parties in this action as follows:

Kevin Gres
Law Offices of Kevin Gres
2049 Century Park East, Suite 3020
Los Angeles, CA 90067
Email: kevin@kevingres.com

Attorneys for Plaintiff Matthew Shelton

Mary T. Hernández
Alex Sears
Obianuju Nzewi,
Garcia Hernández Sawhney, LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501
Email: mhernandez@ghslaw.com;
asears@ghslaw.com; onzewi@ghslaw.com

Attorneys for Defendant Napa Valley Unified School District

Joshua Stevens
Fagen Friedman & Fulfrost LLP
70 Washington Street, Suite 205
Oakland, California 94607
Email: jstevens@f3law.com

Attorneys for Defendant Benicia Unified School District

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rregnier@firstamendmentcoalition.org to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 31, 2024, at East Palo Alto, California.



Robin P. Regnier

Exhibit 1



Holly McDede <hollyjmcdede@gmail.com>

CA Public Record Act request

1 message

Holly McDede <hollyjmcdede@gmail.com>
To: PRA@nvusd.org

Fri, Mar 8, 2024 at 4:54 PM

To whom it may concern:

This is a request made under the California Public Records Act, Government Code sections 7920.000 – 7931.000, for records in the possession or control of your agency.

I am requesting all public records related to any and all claims of misconduct against Matthew Joseph Shelton.

Such public records should include, but not be limited to, all complaints; allegations; claims; investigatory reports; analyses; summaries; memoranda and/or notes; interview recordings; transcripts and/or notes; reviews; emails, text or other electronic messages, voicemails, and/or other communications and/or correspondence; determinations; decisions; orders; resignation letters; employment reclassification documents; offers in compromise and/or settlement agreements; termination and/or transfer papers; letters of reproof and/or other disciplinary actions, whether imposed or not; referrals to law enforcement, administrative, and/or licensing agencies, departments, and/or bodies; appeals; court filings and/or rulings; and all similar materials notwithstanding the use of other terminology, nomenclature, or categorization by this or other involved public agencies.”

Complaints and related investigation reports are subject to disclosure where discipline was imposed or, where discipline was not imposed, if the complaint was of a "substantial nature" regardless of whether the complaint was substantiated. In *BRV, Inc. v. Superior Court*, section 6254(c) did not exempt from disclosure a report related to alleged misconduct (including sexual harassment) by a district superintendent. *BRV, Inc. v. Superior Court*, 143 Cal. App. 4th 742, 747-749 (2006).

I am not seeking any student names or identities, which is what FERPA is designed to protect, and any information that could identify students can be redacted.

Thank you for your assistance.

Best,

Holly McDede
Reporter
732-397-3323

Exhibit 2



Holly McDede <hollyjmcdede@gmail.com>

CA Public Record Act request

Holly McDede <hollyjmcdede@gmail.com>

Fri, Mar 8, 2024 at 4:35 PM

To: dwright@beniciaunified.org, gmartinez@beniciaunified.org, kgill@beniciaunified.org, TRahill@beniciaunified.org

To whom it may concern:

This is a request made under the California Public Records Act, Government Code sections 7920.000 – 7931.000, for records in the possession or control of your agency.

I am requesting all public records related to any and all claims of misconduct against Matthew Joseph Shelton.

Such public records should include, but not be limited to, all complaints; allegations; claims; investigatory reports; analyses; summaries; memoranda and/or notes; interview recordings; transcripts and/or notes; reviews; emails, text or other electronic messages, voicemails, and/or other communications and/or correspondence; determinations; decisions; orders; resignation letters; employment reclassification documents; offers in compromise and/or settlement agreements; termination and/or transfer papers; letters of reproof and/or other disciplinary actions, whether imposed or not; referrals to law enforcement, administrative, and/or licensing agencies, departments, and/or bodies; appeals; court filings and/or rulings; and all similar materials notwithstanding the use of other terminology, nomenclature, or categorization by this or other involved public agencies.”

Complaints and related investigation reports are subject to disclosure where discipline was imposed or, where discipline was not imposed, if the complaint was of a "substantial nature" regardless of whether the complaint was substantiated. In *BRV, Inc. v. Superior Court*, section 6254(c) did not exempt from disclosure a report related to alleged misconduct (including sexual harassment) by a district superintendent. *BRV, Inc. v. Superior Court*, 143 Cal. App. 4th 742, 747-749 (2006).

I am not seeking any student names or identities, which is what FERPA is designed to protect, and any information that could identify students can be redacted.

Thank you for your assistance.

Best,

Holly McDede
Reporter
732-397-3323

Exhibit 3



Holly McDede <hollyjmcdede@gmail.com>

CA Public Record Act Request

3 messages

Holly McDede <hollyjmcdede@gmail.com>
To: pra@nvusd.org

Mon, Mar 18, 2024 at 11:35 AM

March 18th, 2024

To whom it may concern:

This is a request made under the California Public Records Act, Government Code sections 7920.000 – 7931.000, for records in the possession or control of your agency.

I am requesting the following public records:

- All separation agreements and settlements involving Matthew Shelton
- All records of employment for Matthew Shelton, including performance evaluations, disciplinary records, commendations, termination notices, resignation notices, and any other documents related to his tenure
- Any and all reports of educator misconduct or other allegations submitted to the California Commission on Teacher Credentialing concerning Matthew Shelton

Thank you, please reach out if you have any questions, 732-397-3323.

Best,

Holly McDede
Reporter
732-397-3323

Noris Tregoning <ntregoning@nvusd.org>
To: Holly McDede <hollyjmcdede@gmail.com>

Mon, Mar 18, 2024 at 2:59 PM

Hello Holly,
Human Resources received your second PRA request for information pertaining to Matthew Shelton. Please be advised we have 10 days to respond to your request, which would be 3/28/2024.
The response to the first request is due by 3//21/24.

Please let me know if you have any questions or concerns.

Thank you,



Noris Tregoning
Executive Assistant
Napa Valley Unified School District
Human Resources

Phone: 707-253-4206
Web: www.nvusd.org
Email: ntregoning@nvusd.org

----- Forwarded message -----

From: **PRA NVUSD** <pra@nvusd.org>
Date: Mon, Mar 18, 2024 at 11:38 AM
Subject: Fwd: CA Public Record Act Request
To: Noris Tregoning <ntregoning@nvusd.org>

Hello Noris,

We received the following PRA request. Please log in and respond accordingly.

Thank you.

Kind Regards,
Vera Morales

Executive Assistant to the Superintendent
Napa Valley Unified School District

Confidentiality Notice: This email message, including any attachments, is for the intended recipient's sole use and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by replying to this email and delete all copies of the original message.

----- Forwarded message -----

From: **Holly McDede** <hollyjmcdede@gmail.com>

Date: Mon, Mar 18, 2024 at 11:36AM

Subject: CA Public Record Act Request

To: <pra@nvusd.org>

EXTERNAL EMAIL - This email was sent by a person from outside your organization. Exercise caution when clicking links, opening attachments or taking further action, before validating its authenticity.

Secured by Check Point

[Quoted text hidden]

Holly McDede <hollyjmcdede@gmail.com>
To: Noris Tregoning <ntregoning@nvusd.org>

Mon, Mar 18, 2024 at 3:00 PM

Thank you!

Holly McDede
Reporter
732-397-3323

[Quoted text hidden]

Exhibit 4



Holly McDede <hollyjmcdede@gmail.com>

CA Public Record Request

5 messages

Holly McDede <hollyjmcdede@gmail.com>
To: Georgina Martinez <gmartinez@beniciaunified.org>

Mon, Mar 18, 2024 at 11:48 AM

March 18th, 2024

To whom it may concern:

This is a request made under the California Public Records Act, Government Code sections 7920.000 – 7931.000, for records in the possession or control of your agency.

I am requesting the following public records:

- All separation agreements and settlements involving Matthew Shelton
- All records of employment for Matthew Shelton, including but not limited to job postings, applications material, interview notes
- Any and all reports of educator misconduct submitted to the California Commission on Teacher Credentialing concerning Matthew Shelton

I appreciate your assistance with this request,

Holly McDede
Reporter
732-397-3323

Georgina Martinez <gmartinez@beniciaunified.org>
To: Holly McDede <hollyjmcdede@gmail.com>
Cc: Damon Wright <dwright@beniciaunified.org>, Khushwinder Gill <kgill@beniciaunified.org>

Thu, Mar 28, 2024 at 1:05 PM

Good Afternoon Ms. McDede,

Please find attached your initial response to this request. We are closed for Spring Break next week, but would be happy to respond to any questions upon our return, on Monday, April 8th should you have any.

Don't let what you cannot do,
interfere with what you *can* do

John Wooden

All the best,

Georgina Martinez

Chief Assistant to the Superintendent, Dr. Damon J. Wright
and Executive Assistant to the Board of Trustees
Benicia Unified School District
350 East K Street. Benicia, CA 94510

Exhibit 5



Holly McDede <hollyjmcdede@gmail.com>

PRA Update

7 messages

Noris Tregoning <ntregoning@nvusd.org>
To: Holly McDede <hollyjmcdede@gmail.com>
Cc: Dana Page <dpage@nvusd.org>

Tue, Mar 26, 2024 at 3:54 PM

Hi Holly,
I wanted to assure you that transparency is one of the Napa Valley Unified School District's most important values in building and maintaining trust among our community partners.
We were just as frustrated as you to be unable to find any files on Mr. Shelton's short tenure with our District.

There is good news, however. After much searching, we finally found his employment records in a storage area that our current administration does not use for employment files.
We will provide all files to you that are not exempt. Attached is a list of applicable general exemptions.

Upon a quick initial review, it appears that the files contain some confidential personal information (primarily his social security number) and some confidential student records with student names and identifying information that will need to be redacted prior to disclosure.
We will also follow our normal protocol of notifying employees (including former employees) that their personnel records will be produced within two weeks in order to give him an opportunity to make an appropriate filing in Court to prevent disclosure if he objects to the disclosure.

Please note that there are no separation or settlement agreements. Mr. Shelton was employed by the Phillips Edison Charter School with NVUSD for only one year, and because of his status as a probationary employee, the District was entitled to release him from all employment with the District without cause upon written notice.
In response to your question regarding investigations, from what we discerned from the files, the complaints against Mr. Shelton were made directly to the Napa Police Department (NPD) not to NVUSD.
As soon as NPD made NVUSD aware that it was investigating Mr. Shelton, NVUSD placed him on administrative leave and Mr. Shelton never returned thereafter to any NVUSD classroom. NVUSD fully cooperated with NPD's investigation.

We will provide all disclosable records to you in approximately two weeks. In the meantime, let me know if you have any questions.

Thank you,



Noris Tregoning
Executive Assistant
Napa Valley Unified School District
Human Resources

Phone: 707-253-4206
Web: www.nvusd.org
Email: ntregoning@nvusd.org

CPRA Exemptions.pdf
154K

Holly McDede <hollyjmcdede@gmail.com>
To: Noris Tregoning <ntregoning@nvusd.org>
Cc: Dana Page <dpage@nvusd.org>

Tue, Mar 26, 2024 at 3:58 PM

Thank you Noris, for the response.

Holly McDede
Reporter

CALIFORNIA PUBLIC RECORDS ACT GENERAL EXEMPTIONS

General Objection to Producing Personnel Records Constituting an Unwarranted Invasion of Privacy

The District will not produce employee personnel records to the extent that the disclosure of such records would constitute an unwarranted invasion of personal privacy in violation of the California Public Records Act. Gov. Code § 7927.700 and 7928.300.

General Objection to Producing Records Exempt Pursuant to Government Code Section 7922.000

With respect to all of the District's responses above, the District will not produce any records for which the public interest in non-disclosure clearly outweighs the public interest in disclosure. Gov. Code § 7922.000. *Times Mirror Co. v. Superior Court* (1991) 53 Cal. 3d 1325, 1341-42 (1991).

General Objection to Producing Records Exempt Pursuant to Government Code Section 7922.000

Under Gov. Code § 7922.000, records are exempt from disclosure if the public interest in nondisclosure clearly outweighs the public interest in disclosure. Various California court decisions have held that individuals have privacy interests in their personal contact information. In *City of San Jose v. Superior Court*, 74 Cal. App. 4th 1008 (1999), the court allowed the nondisclosure of the names, addresses, and telephone numbers of airport noise complainants because of the anticipated chilling effect on future citizen complaints. The court explained that the disclosure of records regarding private citizens, identifiable by name, was not the purpose of various public record acts, such as the CPRA and FOIA. Id. at 1019. Additionally, disclosure of such information would not provide the public with any information regarding the District's performance of any state and federal mandated requirements. Id. at 1020.

General Objection to Producing Privileged Records Exempt Pursuant to Government Code Section 7927.705

With respect to all of the District's responses above, the District will not produce any records to the extent that the disclosure of such records is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. Gov. Code § 7927.705. Information transmitted between a public official and his or her attorney in confidence (including, but not limited to, legal opinions and advice) is privileged and is not subject to disclosure. Evid. Code §§ 950-962; Bus. & Prof. Code § 6068. This privilege applies whether or not a situation involves litigation. *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 371.

**General Objection to Producing Student Education
Records and Personally Identifiable Information**

Schools are prohibited by certain federal and state laws and regulations that safeguard student privacy rights from disclosing personally identifiable information from a student's educational records without first obtaining parental consent. *See*, the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended (20 U.S.C. § 1232g; 34 CFR Part 99), California *Education Code* Section 49062 et seq., and Article 1, Section 1 of the California Constitution. As such, with respect to all of the District's responses above, some of the records that are responsive to your requests may be protected under state and federal laws as student education records and will be withheld or redacted accordingly.

**General Objection to Producing Preliminary Drafts of Documents that are
Not Retained by the District in the Normal Course of Business**

With respect to all of the District's responses above, the District will not produce records to the extent that they constitute preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the District in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in their disclosure. Gov. Code § 7927.500.

Exhibit 6



March 18, 2024

Via Email: hollyjmcdede@gmail.com

Holly McDede

Re: California Public Records Act Dated March 8, 2024

Dear Ms. McDede:

The Benicia Unified School District (“District”) is in receipt of your request for records pursuant to the California Public Records Act (“CPRA;” Gov. Code § 7920.000 et seq.) dated March 8, 2024. This letter constitutes the District’s initial response to your request.

Government Code section 7922.535 subdivision (a) requires that a public agency make an initial determination of whether it has disclosable records in its possession responsive to a CPRA request and offer a reasonable timeframe in which it will produce the records. Also, please note that the District is not required to create, compile, or summarize any records in order to respond to a CPRA request. The District is only required to provide existing records that are currently in its possession, custody, or control that are not exempt from disclosure pursuant to the CPRA. In addition, the Government Code exempts certain categories of records from production, and some of those exemptions may apply to your request, including:

- (1) Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business. (Gov. Code § 7927.500.)
- (2) Records, the content of which are exempt or prohibited to the extent that the public interest served by not disclosing the documents outweighs the public interest by disclosing the documents. (Gov. Code § 7922.000.)
- (3) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege, including the attorney-client privilege, and identifiable student information in violation of the federal Family Educational Rights and Privacy Act (“FERPA”) and corresponding California state law. (Gov. Code § 7927.705; Evid. Code §§ 954, 1040(b)(2); 20 U.S.C. § 1232g; Educ. Code § 49076.)

- (4) Records protected by the deliberative process privilege, including those that are prepared to help a decision-maker in making a decision, documents or materials that would expose the District's decision making process in such a way as to discourage candid discussion within the District and undermine the District's ability to perform its functions. (Gov. Code § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.)
- (5) Law enforcement records as described in Government Code section 7923.600(a).
- (6) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 7927.700.)
- (7) The general privacy exemption contained in Article I, section 1 of the California Constitution provides as follows:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

(See also New York Times v. Superior Court (1990) 218 Cal.App.3d 1579.)

The CPRA does not itself contain a general privacy exemption, but does state that "files," the disclosure of which would constitute an unwarranted invasion of personal privacy, are exempt. (Gov. Code § 7927.700.) Moreover, courts have recognized that documents may be withheld from a CPRA production on the basis of privacy when that privacy interest outweighs the interests of the public's access to the information. (*See, e.g., California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 334; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 777; *Bakersfield City School District v. Superior Court* (2004) 118 Cal.App.4th 1041.)

The District now responds to your request as follows.

Request No. 1:

[A]ll public records related to any and all claims of misconduct against Matthew Joseph Shelton.

Response to Request No. 1:

Without waiving any exemptions, the District believes that it has public records responsive to your request. The District interprets your request as seeking all public records relating to well-founded and substantial claims of misconduct against Matthew Joseph Shelton. Please note that the District will not produce any privileged record(s) and/or information encompassed by an exemption under the CPRA or any state or federal law. Accordingly, the District will segregate and/or redact privileged and/or exempt information, including information which would identify individual students in violation of the Family Educational Rights and Privacy Act ("FERPA") and corresponding state law, or personnel or similar files, the disclosure of which may constitute an unwarranted invasion of personal privacy. (*See* 20 U.S.C. § 1232g; Educ. Code § 49060 et seq.; Gov. Code §§ 7927.705, 7922.000.)

Further, as the California Court of Appeal held in *Marken v. Santa Monica-Malibu Unified School District* (2012) 202 Cal.App.4th 1250, public employees have the right to seek legal action to bar an employer from producing documents in response to a CPRA request that would violate the employees' privacy through the release of confidential documents. As the records you seek may relate specifically to complaints or allegations of employee misconduct, the District needs to provide advance notification to Mr. Shelton prior to disclosure.

In order to provide Mr. Shelton with adequate notice of his opportunity to challenge the release of such records, the District plans to provide you with non-privileged, non-exempt public records responsive to your request beginning on or about **April 15, 2024**.

The District is aware of its obligation under Government Code section 7922.600 to assist you in making more focused and effective requests that reasonably describe an identifiable record or records. To the extent the District has misinterpreted your request and/or you are able to provide clarification regarding additional, specific documents you are seeking, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Wright", is positioned above the printed name.

Damon Wright, Ed.D.
Superintendent

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-142/6882816.1

Exhibit 7



March 28, 2024

Via Email: hollyjmcdede@gmail.com

Holly McDede

Re: California Public Records Act Dated March 18, 2024

Dear Ms. McDede:

The Benicia Unified School District (“District”) is in receipt of your request for records pursuant to the California Public Records Act (“CPRA;” Gov. Code § 7920.000 et seq.) dated March 8, 2024. This letter constitutes the District’s initial response to your request.

Government Code section 7922.535 subdivision (a) requires that a public agency make an initial determination of whether it has disclosable records in its possession responsive to a CPRA request and offer a reasonable timeframe in which it will produce the records. Also, please note that the District is not required to create, compile, or summarize any records in order to respond to a CPRA request. The District is only required to provide existing records that are currently in its possession, custody, or control that are not exempt from disclosure pursuant to the CPRA. In addition, the Government Code exempts certain categories of records from production, and some of those exemptions may apply to your request, including:

- (1) Preliminary drafts, notes or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business. (Gov. Code § 7927.500.)
- (2) Records, the content of which are exempt or prohibited to the extent that the public interest served by not disclosing the documents outweighs the public interest by disclosing the documents. (Gov. Code § 7922.000.)
- (3) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege, including the attorney-client privilege, and identifiable student information in violation of the federal Family Educational Rights and Privacy Act (“FERPA”) and corresponding California state law. (Gov. Code § 7927.705; Evid. Code §§ 954, 1040(b)(2); 20 U.S.C. § 1232g; Educ. Code § 49076.)
- (4) Records protected by the deliberative process privilege, including those that are prepared to help a decision-maker in making a decision, documents or materials that would expose

the District's decision making process in such a way as to discourage candid discussion within the District and undermine the District's ability to perform its functions. (Gov. Code § 7922.000; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.)

- (5) Law enforcement records as described in Government Code section 7923.600(a).
- (6) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 7927.700.)
- (7) The general privacy exemption contained in Article I, section 1 of the California Constitution provides as follows:

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

(See also New York Times v. Superior Court (1990) 218 Cal.App.3d 1579.)

The CPRA does not itself contain a general privacy exemption, but does state that "files," the disclosure of which would constitute an unwarranted invasion of personal privacy, are exempt. (Gov. Code § 7927.700.) Moreover, courts have recognized that documents may be withheld from a CPRA production on the basis of privacy when that privacy interest outweighs the interests of the public's access to the information. (*See, e.g., California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 334; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 777; *Bakersfield City School District v. Superior Court* (2004) 118 Cal.App.4th 1041.)

The District now responds to your request as follows.

Request No. 1:

All separation agreements and settlements involving Matthew Shelton.

Response to Request No. 1:

The District interprets your request as seeking all separation agreements and settlements involving Matthew Shelton. Based on the District's interpretation and without waiving any exemptions, the District believes that it has public records responsive to your request.

Request No. 2:

All records of employment for Matthew Shelton, including but not limited to job postings, applications material, interview notes.

Response to Request No. 2:

Most of the documents that you are requesting are exempt from disclosure as personnel records pursuant to Government Code § 7927.700. However, and without waiving any exemptions, the District believes that it has public records responsive to this request to the extent you are once again seeking employment records relating to well-founded and substantial claims of misconduct against Matthew Shelton.¹

Request No. 3:

Any and all reports of educator misconduct submitted to the California Commission on Teacher Credentialing concerning Matthew Shelton.

Response to Request No. 3:

The District interprets your request as seeking any and all reports of educator misconduct submitted to the California Commission on Teacher Credentialing concerning Matthew Shelton. Based on the District's interpretation and without waiving any exemptions, the District believes that it has public records responsive to your request.

Please note that the District will not produce any privileged record(s) and/or information encompassed by an exemption under the CPRA or any state or federal law. Accordingly, the District will segregate and/or redact privileged and/or exempt information, including information which would identify individual students in violation of the Family Educational Rights and Privacy Act ("FERPA") and corresponding state law, or personnel or similar files, the disclosure of which may constitute an unwarranted invasion of personal privacy. (See 20 U.S.C. § 1232g; Educ. Code § 49060 et seq.; Gov. Code §§ 7927.705, 7922.000.)

Further, as the California Court of Appeal held in *Marken v. Santa Monica-Malibu Unified School District* (2012) 202 Cal.App.4th 1250, public employees have the right to seek legal action to bar an employer from producing documents in response to a CPRA request that would violate the employees' privacy through the release of confidential documents. As the records you seek may relate specifically to complaints or allegations of employee misconduct, the District needs to provide advance notification to Mr. Shelton prior to disclosure.

In order to provide Mr. Shelton with adequate notice of his opportunity to challenge the release of such records, the District plans to provide you with non-privileged, non-exempt public records responsive to your request beginning on or about **April 15, 2024**.

The District is aware of its obligation under Government Code section 7922.600 to assist you in making more focused and effective requests that reasonably describe an identifiable record or records. To the extent the District has misinterpreted your request and/or you are able to provide

¹ The District is treating this request as duplicative to the request you made on March 8, 2024 and the District sent an initial response on March 18, 2024.

clarification regarding additional, specific documents you are seeking, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Wright', with a stylized flourish at the end.

Damon Wright, Ed.D.
Superintendent

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-145/6896020.1

Exhibit 8



Benicia High School • Liberty High School • Benicia Middle School • Mary Fernald Elementary

Joe Henderson Elementary • Robert Semple Elementary • Matthew Turner Elementary

April 10, 2024

Via Email: hollyjmc dede@gmail.com

Holly McDede

Re: California Public Records Act Requests Dated March 8 and 18, 2024 – Matthew Shelton

Dear Ms. McDede:

As a follow-up to the letters I sent you on March 18 and 28, 2024, I write to inform you that the Benicia Unified School District ("District") will require additional time to provide you with non-privileged, non-exempt public records responsive to your California Public Records Act ("CPRA") requests dated March 8 and 18, 2024, regarding Matthew Shelton. This additional time is required based on Mr. Shelton's attorney informing the District of his intention to seek court intervention barring the production of responsive documents. The District now plans to provide you with non-privileged, non-exempt public records responsive to your requests on or before April 30, 2024.¹

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Damon Wright, Ed.D.
Superintendent

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-144/6908144.1

¹ This correspondence **does not** pertain to your separate CPRA requests regarding Craig Holden and staffing rosters at Robert Semple Elementary School. The District still plans to provide you with non-privileged, non-exempt public records responsive to those requests as previously indicated.

Exhibit 9



Holly McDede <hollyjmcdede@gmail.com>

Fwd: FW: Notice of Hearing and Related Documents for Shelton; Case #: CU24-03170

1 message

Dana Page <dpage@nvusd.org>
To: hollyjmcdede@gmail.com
Cc: Noris Tregoning <ntregoning@nvusd.org>

Mon, Apr 29, 2024 at 6:28 PM

Dear Ms. McDede,

As requested, here is an update on your PRA request concerning personnel records for Mathew Shelton. The Napa Valley Unified School District received this notice of a complaint filed to prevent our disclosure of records to you. Our legal counsel is currently reviewing it.

Best regards,
Dana Page

From: Office Assistant <office@kevingres.com>
Sent: Tuesday, April 30, 2024 7:01 AM
To: Joshua A. Stevens <jstevens@f3law.com>; Mary Hernandez <mhernandez@ghslaw.com>
Subject: Notice of Hearing and Related Documents for Shelton; Case #: CU24-03170

Hi Joshua and Mary,

Please find attached the following documents related to the upcoming ex parte hearing scheduled for May 1, 2024 at 11:00 AM in Department 10 of the Hall Of Justice located at:

Hall Of Justice
600 Union Avenue
Fairfield, CA 94533

1. Notice of Hearing
2. Conformed Copy of the Ex Parte Application
3. Proof of Service

Could you kindly confirm receipt of this email along with the attachments? Your confirmation will help ensure that all necessary parties have the information needed for the scheduled hearing.

Thank you and please reach out if you have any questions.

Best regards,

Taleen Batanian

Paralegal

Law Offices of Kevin Gres

2049 Century Park E. Suite 3020

Los Angeles, CA 90067

Off: 323.813.1910

Web: www.kevingres.com



2049 Century Park East Suite 750, Los Angeles, CA 90067
(323) 813-1910 • kevingres.com

4 attachments



Shelton Notice of hearing.pdf

168K



SHELTON EX PARTE CONFORMED COPY.pdf

330K



POS FOR NVUSD.pdf

81K



POS FOR BUSD.pdf

81K

Exhibit 10



April 30, 2024

Via Email: hollyjmcdede@gmail.com

Holly McDede

Re: California Public Records Act Requests Dated March 8 and 18, 2024 – Matthew Shelton

Dear Ms. McDede:

As a follow-up to the letters I sent you on March 18, 28 and April 10, 2024, I write to inform you that the Benicia Unified School District ("District") will require additional time to provide you with non-privileged, non-exempt public records responsive to your California Public Records Act ("CPRA") requests dated March 8 and 18, 2024, regarding Matthew Shelton. This additional time is required based on Mr. Shelton's attorney filing the attached *ex parte* application for a temporary restraining order barring the production of responsive documents. Please be advised that the District was informed this morning that a hearing on this matter has been scheduled for tomorrow morning, May 1, 2024 at 11:00 a.m. in Department 10 of the County of Solano Hall of Justice. (See attached Notice of Hearing.) The District will await the court's ruling prior to the release of responsive records.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Damon Wright, Ed.D.
Superintendent

Enclosures

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-144/6926607.1

Exhibit 11



Benicia High School • Liberty High School • Benicia Middle School • Mary Furlan Elementary

Joe Kende van Elementary • Robert Sempie Elementary • Matthew Turner Elementary

May 2, 2024

Via Email: hollyjmcdede@gmail.com

Holly McDede

Re: California Public Records Act Requests Dated March 8 and 18, 2024 – Matthew Shelton

Dear Ms. McDede:

As a follow-up to the letter I sent you on April 30, 2024, I write to inform you that the Solano County Superior Court granted Matthew Shelton's request for a temporary restraining order on May 1, 2024, prohibiting the Benicia Unified School District ("District") from disclosing non-privileged, non-exempt public records responsive to your California Public Records Act ("CPRA") requests dated March 8 and 18, 2024. The next hearing before the court is scheduled for June 11, 2024. The District will await the court's final ruling prior to the release of responsive records.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Damon Wright, Ed.D.
Superintendent

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-144/6931006.1