

Electronically Submitted on 05/21/2024 01:36 PM

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5 Attorneys for Intervenor HOLLY McDEDE
6

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SOLANO
10

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.
17

18 HOLLY McDEDE,

19 Intervenor.
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Case No. CU24-03170

**INTERVENOR HOLLY McDEDE'S
COMPLAINT IN INTERVENTION**

The Hon. Christine N. Donovan

21 Holly McDede hereby intervenes in this action and files this Complaint in Intervention,
22 alleging as follows:

23 **INTRODUCTION**

24 1. Plaintiff Matthew Shelton is a former teacher currently charged with several counts
25 of child sexual abuse allegedly committed when he was employed by Benecia Unified School
26 District. He was previously acquitted of similar charges arising from alleged conduct while
27 employed in the Napa Valley Unified School District.
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1 2. The public has a compelling interest in disclosure of matters related to credible
2 claims of misconduct by teachers, including but not limited to whether school districts properly
3 screened such teachers or addressed or responded to concerns about their conduct.

4 3. Under the California Public Records Act (“CPRA”), Intervenor Holly McDede
5 requested records related to Shelton from the Napa Valley Unified School District and Benicia
6 Unified School District (collectively, “Districts”).

7 4. The Districts initially anticipated releasing records to McDede, but they refrained
8 from doing so after they learned of Shelton’s intent to file this action and to seek a temporary
9 restraining order and injunction preventing disclosure of the requested records.

10 5. After Shelton filed this action, the Court issued the temporary restraining order
11 sought by Shelton, which the Districts did not oppose. The Districts take no position on Shelton’s
12 request for writ of mandate or preliminary or permanent injunction against disclosure.

13 6. McDede has a legally protected interest in access to the public records at issue in
14 this action, disclosure of which serves the public’s interest in oversight and accountability of
15 government in general and school districts in particular.

16 7. McDede intervenes in this action to oppose Shelton’s unfounded demand to
17 prohibit disclosure of records related to his employment and to protect the public’s constitutional
18 right of access to public records.

19 **PARTIES**

20 8. McDede, an individual and resident of California, is a reporter who covers sexual
21 misconduct in schools as well as efforts to curb fatal drug overdoses, among other topics.

22 9. Plaintiff Shelton is an individual and resident of California. He is a former teacher
23 previously employed in or by each of the Districts.

24 10. Napa Valley Unified School District is a school district under the laws of the State
25 of California and a local agency subject to the CPRA. Gov’t Code § 7920.510(d).

26 11. Benicia Unified School District is a school district under the laws of the State of
27 California and a local agency subject to the CPRA. Gov’t Code § 7920.510(d).

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1 **JURISDICTION**

2 12. This Court has original jurisdiction over this matter pursuant to the California
3 Constitution, Article VI, section 10 and Code of Civil Procedure sections 387 and 1085.

4 **FACTUAL ALLEGATIONS**

5 **McDede’s Requests for Records at Issue in This Action**

6 13. In or about 2007, while working in the Napa Valley Unified School District,
7 Shelton was charged with sexual misconduct against students but was acquitted at trial in 2008.

8 14. In or about 2015, Shelton began teaching full time in the Benicia Unified School
9 District.

10 15. After concerns were raised about his conduct, the Benicia district placed him on
11 leave in or about December 2022, and he resigned in or about June 2023.

12 16. In February 2024, Shelton was charged in this Court with five counts of lewd acts
13 on a child under the age of 14 occurring between September 1, 2022, and December 1, 2022, in
14 violation of Penal Code section 288(a).

15 17. In March 2024, an amended criminal complaint was filed against Shelton, adding
16 two more counts of lewd acts on a child under the age of 14 occurring between August 1, 2018,
17 and July 1, 2019, in violation of Penal Code section 288(a).

18 18. On March 8, 2024, McDede made requests under the CPRA to each of the Districts
19 for all “records related to any and all claims of misconduct against Matthew Joseph Shelton.”

20 19. Each request stated, “I am not seeking any student names or identities,” and “any
21 information that could clearly identify students can be redacted.”

22 20. A true and correct copy of the March 8 request to Napa Valley Unified School
23 District is attached hereto as **Exhibit 1**.

24 21. A true and correct copy of the March 8 request to Benicia Unified School District is
25 attached hereto as **Exhibit 2**.

26 22. On March 18, 2024, McDede made requests under the CPRA to each of the
27 Districts for any separation agreements and settlements with Shelton, all other records related to
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1 his employment, and any reports of misconduct submitted to the Commission on Teacher
2 Credentialing regarding Shelton.

3 23. A true and correct copy of the March 18 request to Napa Valley Unified School
4 District is attached hereto as **Exhibit 3**.

5 24. A true and correct copy of the March 18 request to Benicia Unified School District
6 is attached hereto as **Exhibit 4**.

7 **Napa Valley Unified School District's Response**

8 25. On March 26, 2024, Napa Valley Unified School District informed McDede in an
9 email that it had located "employment records" for Shelton and would "provide all files to you that
10 are not exempt," with redactions for "confidential personal information (primarily his social
11 security number)" and "student names and identifying information." A true and correct copy of the
12 March 26 email is attached hereto as **Exhibit 5**.

13 26. The email said Napa Valley Unified School District would follow its "normal
14 protocol of notifying employees (including former employees) that their personnel records will be
15 produced within two weeks in order to give him an opportunity to make an appropriate filing in
16 Court to prevent disclosure if he objects to the disclosure."

17 27. The email stated that Napa Valley Unified School District anticipated providing
18 "all disclosable records" to McDede "in approximately two weeks."

19 **Benicia Unified School District's Response**

20 28. By letter dated March 18, 2024, Benicia Unified School District responded to
21 McDede's March 8 CPRA request, stating, "the District believes it has public records responsive
22 to your request" regarding "well-founded and substantial claims of misconduct against Matthew
23 Joseph Shelton." A true and correct copy of the March 18 letter is attached hereto as **Exhibit 6**.

24 29. The March 18 letter reserved the right to "segregate and/or redact privileged and/or
25 exempt information."

26 30. The March 18 letter stated, "As the records you seek may relate specifically to
27 complaints or allegations of employee misconduct, the District needs to provide advance
28 notification to Mr. Shelton prior to disclosure," and to "provide Mr. Shelton with adequate notice

1 of his opportunity to challenge the release of such records, the District plans to provide you with
2 non-privileged, non-exempt public records responsive to your request beginning on or about
3 **April 15, 2024.**”

4 31. By letter dated March 28, 2024, Benicia Unified School District responded to
5 McDede’s March 18 CPRA request. A true and correct copy of the March 28 letter is attached
6 hereto as **Exhibit 7.**

7 32. As to “separation agreements and settlements involving Matthew Shelton,” the
8 March 28 letter stated, “the District believes it has public records responsive to your request.”

9 33. As to “records of employment for Matthew Shelton,” the March 28 letter stated that
10 most of those documents “are exempt from disclosure as personnel records pursuant to
11 Government Code § 7927.700,” but “without waiving any exemptions, the District believes that it
12 has public records responsive to this request to the extent you are once again seeking employment
13 records relating to well-founded and substantial claims of misconduct against Matthew Shelton.”

14 34. As to “reports of educator misconduct submitted to the California Commission on
15 Teacher Credentialing concerning Matthew Shelton,” the March 28 letter stated that “without
16 waiving any exemptions, the District believes that it has public records responsive to your
17 request.”

18 35. The March 28 letter reserved the right to “segregate and/or redact privileged and/or
19 exempt information.”

20 36. The March 28 letter stated, “As the records you seek may relate specifically to
21 complaints or allegations of employee misconduct, the District needs to provide advance
22 notification to Mr. Shelton prior to disclosure,” and to “provide Mr. Shelton with adequate notice
23 of his opportunity to challenge the release of such records, the District plans to provide you with
24 non-privileged, non-exempt public records responsive to your request beginning on or about
25 **April 15, 2024.**”

26 **Shelton’s Complaint Prevents Disclosure**

27 37. By letter dated April 10, 2024, Benicia Unified School District informed McDede
28 that the district would “require additional time to provide you with non-privileged, non-exempt

1 public records,” due to “Mr. Shelton’s attorney informing the District of his intention to seek court
2 intervention barring the production of responsive documents.” The superintendent anticipated
3 disclosing “records responsive” to McDede’s request “on or before April 30, 2024.” A true and
4 correct copy of the April 10 letter is attached hereto as **Exhibit 8**.

5 38. Before the Districts released any records to McDede, Shelton filed this action on
6 April 25, 2024, contending that disclosure would violate his right to privacy and jeopardize his
7 right to a fair trial.

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

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

18 41. As Shelton’s attorney admitted, “responsive documents” at issue in this action
19 pertain to “acts allegedly committed by Mr. Shelton against various minors during his teaching
20 tenure.” Ex Parte Application for Temporary Restraining Order at p. 11, Gres Decl. ¶ 3.

21 42. On May 1, 2024, this Court issued a temporary restraining order preventing
22 disclosure of the records requested by McDede, which the Districts did not oppose. The Districts
23 also remain neutral on the merits of Shelton’s claims.

24 43. The Court scheduled a hearing for June 11, 2024, on an order to show cause why a
25 preliminary injunction should not be issued. The Court directed Shelton to file any further brief in
26 support of his request for a preliminary injunction by May 17, 2024, with any opposition to be
27 filed by May 31, 2024.

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

7 45. Due to Shelton’s filing of this action and the temporary restraining order issued by
8 this Court, McDede has not received any of the records she requested from the Districts.

9 **Right to Disclosure of Requested Records**

10 46. The California Constitution and CPRA require state and local agencies to make any
11 public record promptly available for inspection or copying upon request unless the record falls
12 within a specific exemption from disclosure. Cal. Const. art. I, § 3(b)(1), (7); Gov’t Code
13 §§ 7922.000, 7922.525, 7922.530.

14 47. The requested records are public records subject to the CPRA. “[P]ublic records’
15 includes any writing containing information relating to the conduct of the public’s business
16 prepared, owned, used, or retained by any state or local agency regardless of physical form or
17 characteristics.” Gov’t Code § 7920.530(a).

18 48. Each of the Districts has possession or control of public records requested by
19 McDede and has not disclosed them to McDede.

20 49. The records requested by McDede do not fall within any exemption from
21 disclosure that would justify withholding such records in their entirety.

22 50. The requested records do not qualify in their entirety for the CPRA’s exemption for
23 “personnel, medical, or similar files, the disclosure of which would constitute an unwarranted
24 invasion of personal privacy.” Gov’t Code § 7927.700.

25 51. The constitutional right to privacy, Cal. Const. art. I, § 1, does not prevent
26 disclosure of the requested records in their entirety. Any privacy interest Shelton might have is
27 outweighed by the public’s compelling interest in disclosure of records relating to findings of
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1 misconduct by public employees, or at least reasonable cause to believe substantial misconduct
2 occurred, especially in the case of teachers who occupy a special position of trust and confidence.

3 52. The right to a fair trial does not prevent disclosure of the requested records.
4 Shelton has not proven any substantial likelihood that his right to a fair trial would be prejudiced
5 by any pretrial publicity resulting from disclosure of the records, and in any event, there are
6 abundant less restrictive means to ensure a fair trial, such as appropriate voir dire, cautionary
7 instructions to avoid or disregard publicity, and if necessary a change of venue.

8 53. For these reasons, Shelton is not entitled to a writ of mandate, preliminary or
9 permanent injunction prohibiting disclosure of the requested records, or declaratory relief to the
10 same effect.

11 54. If this Court denies relief to Shelton and a dispute arises between McDede and one
12 or both of the Districts regarding withholding or redaction of any of the requested records,
13 McDede reserves the right to amend this complaint in intervention or take other appropriate action
14 to seek relief against one or both of the Districts under the CPRA.

15 **McDede's Direct Interest in Accessing Records and Right to Intervene**

16 55. McDede has a strong and direct interest in intervening in this action to seek
17 dissolution of the temporary restraining order and prevent Shelton from obtaining a preliminary
18 injunction, permanent injunction, declaratory judgment, or writ of mandate that would prohibit the
19 Districts from disclosing the records she requested.

20 56. The public has a compelling interest in disclosure of records concerning well-
21 founded allegations of misconduct of public employees, especially that of teachers who occupy a
22 special position of trust and confidence, and also in disclosure of records relating to the
23 promptness, fairness, and effectiveness of agencies in responding to such allegations.

24 57. McDede's application to intervene is timely. She promptly sought leave to
25 intervene once she learned that this action had been filed and the Court issued a temporary
26 restraining order prohibiting the Districts from disclosing the records she requested. She is
27 prepared to file a brief in opposition to Shelton's position in compliance with the court's briefing
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1 schedule. Her intervention will not interfere with the Court's schedule or delay the prompt
2 disposition of this action.

3 58. McDede is entitled to intervene by right in this action, pursuant to Code of Civil
4 Procedure section 387(d)(1)(B) because she has an interest in the public records that are the
5 subject matter of the action, her ability to protect that interest would be impaired or impeded by
6 the disposition of this action, and her interest is not adequately represented by the parties.

7 59. In the alternative, the Court should grant leave for permissive intervention pursuant
8 to Code of Civil Procedure section 387(d)(2) because McDede has an interest in accessing the
9 public records that are the subject matter of this action.

10 **RELIEF SOUGHT**

11 WHEREFORE, McDede prays for judgment as follows:

- 12 1. For an order VACATING the temporary restraining order entered by the Court.
- 13 2. For an order DENYING Plaintiff's petition for writ of mandate.
- 14 3. For an order DENYING Plaintiff's requests for declaratory relief, preliminary
15 injunction, permanent injunction, or any other relief sought by Plaintiff.
- 16 4. For a declaration that Plaintiff's rights to privacy or a fair trial cannot justify
17 prohibiting the disclosure of said records.
- 18 5. For costs and attorneys' fees as permitted by Code of Civil Procedure section
19 1021.5 or other applicable law;
- 20 5. For judgment accordingly; and
- 21 6. For such other relief as the Court deems just.

22 Dated: May 21, 2024

23 FIRST AMENDMENT COALITION

24 By



25 _____
26 DAVID LOY
27 ANN CAPPETTA
28 Attorneys for HOLLY McDEDE

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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 21, 2024, I served true copies of the following document(s) described as **INTERVENOR HOLLY McDEDE’S COMPLAINT IN INTERVENTION** on the interested parties in this action as follows:

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

Mary T. Hernández Attorneys for Defendant Napa Valley Unified School District
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

Joshua Stevens Attorneys for Defendant Benicia Unified School District
Fagen Friedman & Fulfrost LLP
70 Washington Street, Suite 205
Oakland, California 94607
Email: jstevens@f3law.com

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 21, 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 <hollyjmc dede@gmail.com>

PRA Update

7 messages

Noris Tregoning <ntregoning@nvusd.org>
To: Holly McDede <hollyjmc dede@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 <hollyjmc dede@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 written over a horizontal line.

Damon Wright, Ed.D.
Superintendent

Cc: Dr. Khushwinder Gill, Assistant Superintendent Human Resources

284-142/6882816.1

Exhibit 7



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

Joe Henderson Elementary • Robert Semple Elementary • Matthew Turner Elementary

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



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