

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL
DISTRICT

Appellant,

vs.

THE LAS VEGAS REVIEW-
JOURNAL,

Respondent.

CASE NO.: 73525

RESPONDENT'S APPENDIX – VOLUME IV

Appeal from Eighth Judicial District Court, Clark County

The Honorable Timothy C. Williams, District Judge

District Court Case No. A-17-750151-W

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLECHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for The Las Vegas Review-Journal

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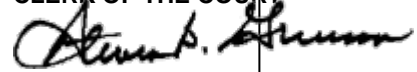
CERTIFICATE OF SERVICE

I hereby certify that the foregoing RESPONDENT'S APPENDIX – VOLUME IV was filed electronically with the Nevada Supreme Court on the 24th day of January, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
Counsel for Appellant,
Clark County School District

/s/ Pharan Burchfield

Employee of McLetchie Shell LLC



ERR

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLEATCHIE SHELL LLC

701 East Bridger Avenue, Suite 520

Las Vegas, NV 89101

Telephone: (702)-728-5300

Email: maggie@nvlitigation.com

Counsel for Petitioner

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No.: A-17-750151-W

Dept. No.: XVI

**ERRATA TO APPENDIX OF
EXHIBITS IN SUPPORT OF
PETITIONER LAS VEGAS REVIEW-
JOURNAL'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

Pursuant to Eighth Judicial District Court Rule 2.27(a), "Exhibits that are submitted to the court that are in excess of 10 pages in length must be numbered consecutively in the lower righthand corner of the document. Exhibits shall be separated by sheets with the identification "Exhibit ____" centered in the separator page in 24point font or larger." Due to a clerical error, the Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs which was filed with this Court on September 20, 2017 inadvertently omitted the separating "Exhibit" pages.

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1 The undersigned apologizes for the error, and respectfully submits the attached
2 Corrected Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion
3 for Attorney's Fees and Costs.

4 DATED this 20th day of September, 2017.

5 /s/ Margaret A. McLetchie

6 MARGARET A MCLEATCHIE, Nevada Bar No. 10931

7 ALINA M. SHELL, Nevada Bar No. 11711

8 **MCLEATCHIE SHELL LLC**

9 *Counsel for Petitioner*

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 20th day of September, 2017, I did cause a true copy of the foregoing ERRATA TO APPENDIX OF EXHIBITS IN SUPPORT OF PETITIONER LAS VEGAS REVIEW-JOURNAL’S MOTION FOR ATTORNEY’S FEES AND COSTS in *Las Vegas Review-Journal v. Clark County School District*, Clark County District Court Case No. A-17-750151-W, to be served electronically using the Odyssey File&Serve system, to all parties with an email address on record.

/s/ Pharan Burchfield
An Employee of MCLETCHE SHELL LLC

EXHS

MARGARET A. MCLETCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLETCHIE SHELL LLC
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101
Telephone: (702)-728-5300
Email: maggie@nvlitigation.com
Counsel for Petitioner

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No.: A-17-750151-W

Dept. No.: XVI

**CORRECTED APPENDIX OF
EXHIBITS IN SUPPORT OF
PETITIONER LAS VEGAS REVIEW-
JOURNAL'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

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Exhibit	Description	Bates Nos.
1	Declaration of Margaret A. McLetchie	MAFC001-003
2	Attorney's Fees	MAFC004-034
3	Attorney's Costs and Expenses	MAFC035-039
4	Transcript of August 17, 2017 Deposition of Cynthia Smith-Johnson	MAFC040-138
5	Transcript of August 18, 2017 Deposition of Daniel R. Wray	MAFC139-233
6	Exhibit 24 to Daniel R. Wray's Deposition; January 23, 2009 Transcript of Evidentiary Hearing in <i>Karen Gray vs. Clark County School District</i> (Case No. A843861)	MAFC234-277
7	Declaration of Kathleen Jane England	MAFC278-282

DATED this 20th day of September, 2017.

/s/ Margaret A. McLetchie

MARGARET A MCLETCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLETCHIE SHELL LLC
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 20th day of September, 2017, I did cause a true copy of the foregoing CORRECTED APPENDIX OF EXHIBITS IN SUPPORT OF PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS in *Las Vegas Review-Journal v. Clark County School District*, Clark County District Court Case No. A-17-750151-W, to be served electronically using the Odyssey File&Serve system, to all parties with an email address on record.

/s/ Pharan Burchfield

An Employee of MCLETSCHIE SHELL LLC

EXHIBIT 4

1 EIGHTH JUDICIAL DISTRICT COURT

2 CLARK COUNTY, NEVADA

3
4 LAS VEGAS REVIEW-JOURNAL,

5 Petitioner,

6 vs.

7 CLARK COUNTY SCHOOL DISTRICT,

8 Respondent.

Case No.:

A-17-750151-W

Dept. XVI

_____/

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14 DEPOSITION OF CYNTHIA SMITH-JOHNSON

15 Thursday, August 17, 2017

16 Las Vegas, Nevada

17
18
19
20
21
22 Reported by:

Michelle C. Johnson, RPR-CRR

23 NV CCR 771, CA CSR 5962

24 Job No. 2674600

25 Pages 1 - 99

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1 BE IT REMEMBERED that, pursuant to the laws
2 governing the taking and use of depositions, and on
3 Thursday, August 17, 2017, commencing at 1:03 p.m.
4 thereof, at Veritext Legal Solutions, 2250 South
5 Rancho Drive, Suite 195, Las Vegas, Nevada, before me,
6 MICHELLE C. JOHNSON, a Certified Court Reporter in the
7 States of Nevada and California, personally appeared
8 CYNTHIA SMITH-JOHNSON, called as a witness by the
9 Petitioner.

10 APPEARANCES:

11 For the Petitioner:

12 MARGARET A. McLEITCHIE
13 ALINA M. SHELL
14 Attorneys at Law
15 McLEITCHIE SHELL LLC
16 701 Bridger Avenue
17 Suite 520
18 Las Vegas, Nevada 89101
19 702/728-5300
20 maggie@nvlitigation.com
21 alina@nvlitigation.com

22 For the Respondent:

23 ADAM D. HONEY
24 Assistant General Counsel
25 CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, Nevada 89146
702/799-5373
ahoney@interact.ccsd.net

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1 CYNTHIA SMITH-JOHNSON,
2 being first duly sworn to tell the truth, the whole
3 truth, and nothing but the truth, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MS. McLETCHE:

7 Q. Hi there. Do you go by Ms. Smith-Johnson or
8 Ms. Smith or Ms. Johnson?

9 A. Smith-Johnson.

10 Q. Smith-Johnson.

11 A. Cindy is fine too.

12 Q. For the record, I may call you
13 Ms. Smith-Johnson today --

14 A. Okay.

15 Q. -- but I appreciate that.

16 Just for the record, could you state your
17 full name.

18 A. Cynthia Smith-Johnson.

19 Q. And could you spell that for the record.

20 A. S-m-i-t-h hyphen J-o-h-n-s-o-n.

21 Q. And you are currently employed by the Clark
22 County School District?

23 A. Yes.

24 Q. If we have time at the end, we might talk a
25 little bit about your background.

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1 But are you represented by anybody in
2 connection with this deposition?

3 A. I am.

4 Q. And who is your counsel?

5 A. Mr. Honey.

6 Q. When did he become your counsel?

7 A. When the order came through.

8 Q. Which order are you referring to?

9 A. February document notifying us that we were
10 going to discuss this matter.

11 Q. When did he agree that he was going to
12 represent you? Did he represent you at that time or
13 just the Clark County School District?

14 A. Just within the Clark County School District.

15 Q. At some point, did you specifically agree
16 that he would represent you and become your counsel
17 for this deposition?

18 A. He was assigned to me.

19 Q. You understand that Clark County -- you
20 haven't been sued in this litigation, right?

21 A. Right, no.

22 Q. And before the deposition, you weren't a
23 party in this litigation?

24 A. Correct.

25 MR. HONEY: For clarification, you still

1 aren't a party in this litigation.

2 MS. McLEITCHIE: No, you're not to party;
3 you're just here for deposition.

4 Q. But earlier on, Mr. Honey represented the
5 school district. I'm presuming he didn't become your
6 personal attorney in February.

7 A. No.

8 Q. Is he personally representing you today in
9 the deposition --

10 A. I believe so.

11 Q. -- or is he representing the school district?

12 MR. HONEY: I'm representing the school
13 district, which she's an employee of, so I'm
14 representing her as an employee. But to your question
15 do I represent her as personal counsel, no.

16 MS. McLEITCHIE: Are you representing her for
17 the purposes of defending her in this deposition?

18 MR. HONEY: Yes.

19 BY MS. McLEITCHIE:

20 Q. Have you been deposed before
21 Ms. Smith-Johnson?

22 A. No.

23 Q. Do you understand your testimony today is
24 exactly the same as if you were in court, and that
25 means that it is under the penalty of perjury?

1 A. Yes.

2 Q. And do you understand that means that you
3 have to tell the truth?

4 A. Yes.

5 Q. Have you ever testified in a courtroom?

6 A. No.

7 Q. Do you understand what it means to testify
8 under oath?

9 A. Yes.

10 Q. And you understand that you're under oath
11 today?

12 A. Yes.

13 Q. To make it easier on the court reporter,
14 we're going to make sure that one person at a time
15 talks. Even though you can anticipate kind of where
16 I'm going, let me finish my question. Sometimes I
17 speak quickly, and if the court reporter wants to slow
18 me down, she might do that. And just so she has a
19 clear record. Okay?

20 A. Okay.

21 Q. Also, just another kind of ground rule, let's
22 make sure that we don't do head nods or speak uh-huh;
23 we'll do full sentences, yes, no, just so the record
24 is clear.

25 Does that work for you?

1 A. Yes.

2 Q. Okay. I am entitled to your best
3 recollection. So that means, even if you don't
4 remember every specific detail, but you have general
5 memory, I'm entitled to hear from you about what you
6 do recall.

7 Do you understand that?

8 A. Yes.

9 Q. Okay. Your counsel might object from time to
10 time today, and do you understand that even if he
11 objects, you still have to answer my questions unless
12 he instructs you not to answer?

13 A. Yes.

14 Q. Okay. The deposition today is only supposed
15 to run about two hours, so it's a relatively quick
16 deposition. But if you need a break at any time, just
17 let one us of know. The only thing I ask is that if
18 you want to take a break, don't take a break after I
19 have asked a question and before you have answered it.
20 But any other time, if you need to break or you're
21 going to anticipate needing a break, just let us know
22 and feel free. Okay?

23 A. Okay.

24 Q. All right. What did you do to prepare
25 yourself for this deposition?

1 A. I reviewed some of the things I did for this
2 file, this particular request.

3 Q. When you say you reviewed some things that
4 you did, did you review -- and you reviewed a file.
5 What file is that?

6 A. So I have files on my requests that I get,
7 and then I keep documentation in there of my steps
8 that I take to work it through. So I reviewed that
9 file.

10 Q. Do you have that file with you today?

11 A. I don't.

12 Q. Besides looking at that file, what else did
13 you do?

14 A. I met with Mr. Honey.

15 Q. I don't want to know anything you talked
16 about --

17 A. Okay.

18 Q. -- during your meeting with Mr. Honey. But
19 how many times did you meet with Mr. Honey?

20 A. Twice.

21 Q. And when were those meetings?

22 A. I believe they were this week.

23 Q. Did you meet with anybody else from CCSD?

24 A. No.

25 Q. Did you talk to anybody, like Mr. Wray or

1 anybody else?

2 A. No.

3 Q. Do you have any documents whatsoever with you
4 here today?

5 A. No.

6 MS. McLEITCHIE: All right. And for the
7 record, I'm going to give you a copy of the deposition
8 notice and subpoena, just to make that Exhibit 1.

9 (Petitioner's Exhibit 1 was marked for
10 identification.)

11 BY MS. McLEITCHIE:

12 Q. And you are aware you got subpoenaed to come
13 and participate in this deposition today?

14 A. Yes.

15 Q. So I'm going to launch right into it.

16 Do you recall the first -- do you recall the
17 first time you heard from Amelia Pak-Harvey at the
18 Las Vegas Review-Journal regarding records pertaining
19 to Trustee Kevin Child?

20 A. Yes.

21 Q. And when was that?

22 A. That was December of 2016.

23 Q. Here, Adam. This is 2.

24 So if you take a look at this. Does that
25 appear to be -- whenever you have a chance to look at

1 it, let me know.

2 A. Okay.

3 Q. Does that appear to be the first request that
4 you received from Ms. Pak-Harvey?

5 A. Yes.

6 Q. And that was on December 5th?

7 A. Yes.

8 MS. McLETCHE: Okay. We'll mark that as
9 Exhibit 2, please.

10 (Petitioner's Exhibit 2 was marked for
11 identification.)

12 BY MS. McLETCHE:

13 Q. So you received a request from Ms. Pak-Harvey
14 on December 5th, 2016 requesting certain documents
15 from Mr. Child -- regarding Mr. Child. Correct?

16 A. Correct.

17 Q. And what did you do when you received this
18 request on December 5th?

19 A. I sent it to legal department for a heads up.

20 Q. Did you do anything else?

21 A. No. I set up the file.

22 Q. And when you say you "set up the file," what
23 did you do?

24 A. I just took a file and I recorded the date
25 that I received this and that I actually received it

1 from Michelle Booth.

2 Q. Okay.

3 A. And sent an email to legal.

4 Q. Okay. Anything else?

5 A. No.

6 Q. And then turning to that document you have in
7 front of you, this appears to be an additional email
8 from Ms. Pak-Harvey dated June 6th -- I'm sorry;
9 December 8th, 2016.

10 Do you remember receiving that?

11 A. Yes.

12 Q. It appears to me that she's just making sure
13 that you received a copy of the original request.

14 A. Uh-huh.

15 Q. Did you do anything additional when you
16 received that email?

17 A. I did not.

18 (Petitioner's Exhibit 3 was marked for
19 identification.)

20 MR. HONEY: Those copies are for you.

21 THE REPORTER: No, they're not.

22 MS. McLEITCHIE: I'm giving you courtesy
23 copies. I'm giving one copy that's an exhibit and you
24 have a courtesy copy for you and her.

25 MR. HONEY: Fair enough.

1 BY MS. McLETCHE:

2 Q. So turning to this, which appears to be a
3 December 9, 2016 email from you. This appears that
4 you have acknowledged receipt of the public records
5 request from Ms. Pak-Harvey.

6 A. Yes.

7 Q. And when you received this and you said it's
8 being processed, what does that mean?

9 A. It means the request is being processed. I'm
10 waiting -- in this case, I'm waiting from legal for
11 direction on what to do.

12 Q. Okay. So you weren't doing anything until
13 you heard from legal?

14 A. That is correct.

15 MS. McLETCHE: So give that to the court
16 reporter, and I think that will be Exhibit 4.

17 (Petitioner's Exhibit 4 was marked for
18 identification.)

19 MS. McLETCHE: There you go, Adam. There
20 you go, Ms. Smith-Johnson.

21 Q. And does this appear to be a December 9th,
22 2016 supplement to Ms. Pack-Harvey's December 5th,
23 2016 request?

24 A. Yes.

25 Q. So you understood she was asking for

1 additional documents regarding Trustee Kevin Child?

2 A. Yes.

3 Q. And do you remember receiving this letter?

4 A. Yes.

5 Q. This supplement to the December request.

6 If I say "December request" today, will you
7 understand that I mean the December 5th and
8 December 9th supplement?

9 A. Yes, yes.

10 Q. Thank you.

11 What did you do when you got this request?

12 A. I forwarded it to legal department.

13 MS. McLEITCHIE: And we'll mark that as
14 Exhibit 5, I believe. Or are we on Exhibit 6?

15 THE REPORTER: 5.

16 MS. McLEITCHIE: 5.

17 (Petitioner's Exhibit 5 was marked for
18 identification.)

19 BY MS. McLEITCHIE:

20 Q. And you didn't do anything else?

21 A. No.

22 Q. I'll give one to Adam: Mr. Honey.

23 And this appears to be a December 13th, 2016
24 response to the December 5th and December 9th, 2016
25 requests; is that correct?

1 A. Yes.

2 Q. And you state here that we're unable to
3 provide the information within five business days, and
4 you said you anticipate a further response by close of
5 business day on December 16th, if not before.

6 So why did you anticipate that you would be
7 able to provide a further response by December 16,
8 2016?

9 A. Most likely, I was advised of that from the
10 legal department.

11 Q. Okay. And when you say here, "We anticipate
12 a further response," did you intend to produce
13 documents?

14 A. In some cases, we do, yes.

15 Q. In this case. I'm talking about this case.

16 On December 13th, you emailed Ms. Pak-Harvey
17 and you said, "We anticipate a further response by
18 close of business day on December 16th, 2016, if
19 not before."

20 In this case, did you anticipate providing
21 documents?

22 A. Yes.

23 Q. Had you already searched for documents?

24 A. No.

25 Q. And you didn't -- did you start searching for

1 documents on December 13th?

2 A. I'm not sure what date I started searching.

3 Q. Okay. Do you know whether you started
4 searching for documents in December?

5 A. I did review documents in December.

6 Q. You did. Do you remember when in December it
7 was?

8 A. I do not.

9 MS. McLETCHE: Okay. And we'll mark that as
10 Exhibit 6.

11 (Petitioner's Exhibit 6 was marked for
12 identification.)

13 BY MS. McLETCHE:

14 Q. All right, and here you go.

15 This appears to be an email from Amelia
16 Pak-Harvey following up about the request. Is that
17 correct?

18 A. Yes.

19 Q. And she confirms that you have received the
20 request for an addendum, correct?

21 A. Yes.

22 Q. Did you do anything else after receiving this
23 request for an update?

24 A. No.

25 Q. And you're not sure whether or not you had

1 started looking at responsive documents?

2 A. Correct.

3 MS. McLEITCHIE: And we'll mark that as
4 Exhibit 7.

5 (Petitioner's Exhibit 7 was marked for
6 identification.)

7 BY MS. McLEITCHIE:

8 Q. And this looks like Amelia Pak-Harvey is
9 following up again on December 19th.

10 A. Yes.

11 MS. McLEITCHIE: Okay. We'll mark that as
12 Exhibit 8.

13 (Petitioner's Exhibit 8 was marked for
14 identification.)

15 BY MS. McLEITCHIE:

16 Q. Do you remember her following up about that a
17 couple of times in December?

18 A. Yes.

19 Q. When she did that, did you do anything
20 additional?

21 A. I forwarded that to legal.

22 Q. So essentially, was everything in legal's
23 hands?

24 A. Yes.

25 Q. Whether or not to provide responsive

1 documents was up to legal?

2 A. Yes.

3 Q. Was it you or the legal department that began
4 collecting and looking at documents in December?

5 A. I believe in December, my first initial
6 documents came from legal that I just reviewed and
7 redacted.

8 Q. So the only documents you looked at in
9 December came from legal?

10 A. Correct.

11 Q. And so you don't know how the responsive
12 documents were searched for?

13 A. I do not.

14 MS. McLEITCHIE: We'll mark that, if we
15 haven't yet, as Exhibit 9.

16 I'm sorry; was that Exhibit 8?

17 THE REPORTER: Yes.

18 MS. McLEITCHIE: We have marked that.

19 This is Exhibit 9. Here we go.

20 Q. So at this point in time in December,
21 essentially you look at documents and Ms. Pak-Harvey
22 keeps emailing you and asking you what the status is.
23 But you haven't yet produced any documents whatsoever,
24 right?

25 A. Correct.

1 Q. So on December 19th, which is a Monday,
2 December 19, 2016, this document in front of you, this
3 email in front of you -- and this is an email you
4 sent?

5 A. Yes.

6 Q. And you recall sending this?

7 A. Yes.

8 Q. And so you said, "I expect to get back to you
9 with something tomorrow or Wednesday. I'll get back
10 to you either way."

11 Do you remember sending this email?

12 A. Yes.

13 Q. And did you get back to her on -- did you get
14 back to her on Tuesday?

15 A. I don't recall.

16 MS. McLETCHE: We'll mark that as Exhibit 9.

17 (Petitioner's Exhibit 9 was marked for
18 identification.)

19 BY MS. McLETCHE:

20 Q. Were you waiting to hear from legal at this
21 point as to whether or not you could get back to her?

22 A. Yes.

23 Q. And you don't recall at this point whether or
24 not you had even looked at any responsive documents?

25 A. Correct.

1 Q. At some point in December, but you don't know
2 when?

3 A. Correct.

4 Q. Okay. And this appears to be on Tuesday.
5 You didn't get back to Ms. Pak-Harvey, but she got
6 back to you and asked you again what the status was?

7 A. Yes.

8 Q. And you remember receiving this email?

9 A. I do.

10 Q. And you would have forwarded this to legal?

11 A. Correct.

12 MS. McLEITCHIE: Okay. And we'll mark that as
13 Exhibit 10.

14 (Petitioner's Exhibit 10 was marked for
15 identification.)

16 BY MS. McLEITCHIE:

17 Q. Do you recall responding to that email?

18 A. I do not.

19 Q. This looks like an email on December 21st,
20 2016 from Amelia Pak-Harvey to you, again following
21 up. And she says she's trying to get information.

22 Do you remember receiving this email?

23 A. I do.

24 Q. And do you remember whether you did anything
25 besides forward this to legal?

1 A. No.

2 MR. HONEY: Objection. She hasn't testified
3 that she forwarded this email.

4 BY MS. McLEITCHIE:

5 Q. Did you forward this to legal?

6 A. I did.

7 Q. All of these emails from Ms. Pak-Harvey, did
8 you forward to legal?

9 A. I did.

10 MR. HONEY: Let me clarify. You mean all of
11 the emails you have already spoken in regards to?

12 MS. McLEITCHIE: Mr. Honey, I would ask that
13 you state an objection for the record, but not that we
14 get in any kind of dialogue and not that you ask
15 questions. You can ask questions at the end. Right
16 now, the questioning is mine; you can feel free to
17 lodge an objection.

18 MR. HONEY: Right. I object to the last
19 question as being vague and ambiguous as to which
20 emails you are referring to.

21 BY MS. McLEITCHIE:

22 Q. Ms. Smith-Johnson, all of the emails you
23 received from Ms. Pak-Harvey, did you forward each and
24 every email to legal?

25 A. I did.

1 Q. Was it up to legal how to respond?

2 A. Yes.

3 Q. Was it up to legal how to search for
4 responsive documents?

5 A. Yes.

6 Q. Was it up to legal which sources to search?

7 A. Yes.

8 MS. McLETCHE: Mark this as Exhibit 11.

9 (Petitioner's Exhibit 11 was marked for
10 identification.)

11 BY MS. McLETCHE:

12 Q. This appears to be an email from you on
13 December 21st, 2016 finally responding to
14 Ms. Pak-Harvey. It appears that you promised to get
15 back to her on Thursday, correct?

16 A. Correct.

17 Q. At this point, are you waiting to hear back
18 from legal as to what you can do?

19 A. Yes.

20 MS. McLETCHE: We'll mark that as Exhibit
21 12.

22 (Petitioner's Exhibit 12 was marked for
23 identification.)

24 BY MS. McLETCHE:

25 Q. This appears to be a December 22nd, 2016

1 email from you to Ms. Pak-Harvey.

2 Do you recall sending this email?

3 A. Yes.

4 Q. And you said that you needed additional time?

5 A. Yes.

6 Q. And you said you'd follow up in January?

7 A. Correct.

8 Q. Do you recall -- can you explain to me why
9 additional time was needed?

10 A. I hadn't reviewed, I don't believe, any
11 documents at this point, and was waiting for direction
12 from legal.

13 MS. McLEITCHIE: We'll mark that as Exhibit
14 13.

15 (Petitioner's Exhibit 13 was marked for
16 identification.)

17 BY MS. McLEITCHIE:

18 Q. Do you recall receiving this email?

19 A. Yes.

20 Q. And is this a January 4th, 2017 email from
21 Ms. Pak-Harvey again following up?

22 A. Yes.

23 MS. McLEITCHIE: We'll give that to the court
24 reporter and mark it Exhibit 14.

25 (Petitioner's Exhibit 14 was marked for

1 identification.)

2 BY MS. McLEITCHIE:

3 Q. This appears to be a January 9th, 2017 email
4 from you responding to Ms. Pak-Harvey and anticipating
5 a further response on January 13, 2017.

6 And can you tell me why you needed additional
7 time again to provide a response?

8 A. I did not have any documents yet to provide.

9 Q. Earlier you said that you think you may have
10 started reviewing documents in December. Is it
11 possible that you didn't start reviewing documents
12 until later?

13 A. It's possible.

14 Q. If you had reviewed documents in December,
15 then why would you need additional time to provide
16 them?

17 A. I wasn't at liberty to release anything; I
18 hadn't had direction yet.

19 Q. So if I'm correct in understanding this, you
20 think you may have reviewed responsive documents in
21 December?

22 A. Correct.

23 Q. But you couldn't produce them without the
24 okay from legal?

25 A. Correct.

1 Q. And you have no idea how they searched for
2 the December documents -- the documents that you think
3 you reviewed in December?

4 A. Correct.

5 Q. You weren't in charge of figuring out what
6 sources to review?

7 A. Correct.

8 Q. Do you remember how many -- when you reviewed
9 documents in December, do you remember about how many
10 documents you looked at in December?

11 A. I do not.

12 Q. Do you remember what types of documents they
13 were?

14 A. Emails.

15 Q. They were all emails?

16 A. Yes.

17 Q. Do you remember whose emails they were?

18 A. I don't.

19 Q. Did you -- when you were reviewing those
20 documents in December, what did you do in reviewing
21 those documents?

22 A. I read through the emails and I redacted like
23 district InterAct addresses, personal cell phone
24 numbers, just standard things like those two items I
25 redact always. Any names of employees I redact.

1 Q. I'm sorry; you always redact the InterAct
2 email addresses?

3 A. Correct, yes.

4 Q. And you redacted personal cell phone numbers?

5 A. Yes.

6 Q. Was there anything else you redacted?

7 A. If there was a name of a child or something,
8 perhaps that would have been redacted.

9 Q. Okay. Can you recall anything --

10 A. I don't recall any specific child names in
11 these emails.

12 Q. Okay. So the only thing you recall -- the
13 only thing you specifically recall that you probably
14 redacted were InterAct email addresses, personal cell
15 phone numbers, and perhaps student names?

16 A. Correct.

17 Q. You don't remember redacting anything else?

18 A. I don't.

19 Q. Did you think these documents were public
20 records that you were looking at?

21 A. Yes.

22 Q. But you did not produce them when you looked
23 at them?

24 A. No.

25 Q. Because you're waiting to hear from legal?

1 A. Yes.

2 Q. Did you get a universe of documents that you
3 separated into a pile that you thought were responsive
4 to the request and a pile you didn't think were
5 responsive to the request at this point in December?

6 A. No.

7 Q. You thought they were all responsive?

8 A. Yes.

9 Q. So essentially all you did, and you think
10 this was in December, was make redactions that you
11 thought were appropriate and wait to hear from legal
12 to produce these public records?

13 A. Yes.

14 MS. McLEITCHIE: So did we mark Exhibit 15?

15 THE REPORTER: We did now.

16 MS. McLEITCHIE: Thank you very much,
17 Reporter.

18 (Petitioner's Exhibit 15 was marked for
19 identification.)

20 BY MS. McLEITCHIE:

21 Q. So on January 9th, you had told her that you
22 anticipated a further response on January 13, and you
23 told her that -- and then in response, Ms. Pak-Harvey
24 appears to have sent you an email saying that she was
25 concerned and confused about the delay, right?

1 A. Correct.

2 Q. Do you remember receiving this email?

3 A. I do.

4 MS. McLETCHE: Mark that as Exhibit 16.

5 (Petitioner's Exhibit 16 was marked for
6 identification.)

7 BY MS. McLETCHE:

8 Q. You don't recall responding to this email, do
9 you?

10 A. I don't.

11 Q. But you had told her you would get back to
12 her January 13th, correct?

13 A. Right.

14 Q. Did you get back to her on January 13th?

15 A. I don't remember.

16 Q. So this appears to be another email from her
17 after January 13th, and it appears that you have not
18 responded to her on January 13th.

19 A. Correct.

20 Q. Do you usually -- when you -- you mentioned a
21 file that you keep and kind of a checklist document,
22 tracking document, of some sort.

23 Am I correct in understanding that from
24 earlier?

25 A. It's not a tracking document, no, just a file

1 with printouts of these types of things in there.

2 Q. When you tell somebody you're going to get
3 back to them on January 13th, how do you make sure you
4 do that?

5 A. Normally, I would put that information on a
6 calendar that would let me know what I have due that
7 day.

8 Q. Do you recall whether this was on your
9 calendar?

10 A. I'm sure it was, yes.

11 Q. And did you not respond on January 13th
12 because legal instructed you not to?

13 A. No.

14 Q. Do you recall why you didn't respond on
15 January 13th as you had promised?

16 A. I believe it was because I hadn't had
17 direction on what response to provide to
18 Ms. Pak-Harvey.

19 Q. Do you recall why you didn't email her, when
20 you told her you would get back to her on
21 January 13th, and tell her, I still need more time?

22 A. No.

23 Q. Is that your normal practice, to promise a
24 response by a certain date and then just not provide
25 the response?

1 A. No.

2 Q. Do you recall receiving this email on
3 January 16th with her again following up on the status
4 of the request?

5 A. I do.

6 Q. And do you recall responding to this email?

7 A. I don't.

8 MS. McLEITCHIE: And we'll mark that as
9 Exhibit 17.

10 (Petitioner's Exhibit 17 was marked for
11 identification.)

12 BY MS. McLEITCHIE:

13 Q. Do you recall Las Vegas Review-Journal -- did
14 you become aware that the Las Vegas Review-Journal had
15 filed a court action to obtain these documents?

16 A. I did.

17 Q. And do you recall when that was?

18 A. February.

19 Q. It was on January 26, 2017. Does that
20 refresh your recollection?

21 A. I don't recall the specific date.

22 MR. HONEY: Was the question when it was
23 filed or when she learned about it?

24 MS. McLEITCHIE: Mr. Honey, you are allowed to
25 make objections; you are not allowed to ask me

1 questions. Do you have an objection for the record?

2 MR. HONEY: Objection. The last question was
3 vague and ambiguous.

4 BY MS. McLETCHE:

5 Q. Do you recall doing anything different in
6 addition to look for responsive documents after the
7 Las Vegas Review-Journal filed a lawsuit to get
8 records in this case?

9 A. Yes.

10 Q. And what was that?

11 A. Review emails.

12 Q. And when -- so you have reviewed -- were
13 these the emails that you reviewed in December?

14 A. No.

15 Q. These were additional emails?

16 A. Yes.

17 Q. So in December, approximately December, you
18 reviewed some emails in response to Ms. Pak-Harvey's
19 original request. You couldn't produce them because
20 legal told you couldn't produce them yet, right?

21 MR. HONEY: Objection. States information
22 not in evidence. She did not testify she was directed
23 not to produce it.

24 MS. McLETCHE: Those are speaking
25 objections, just for the record.

1 Q. Did you -- so in December, you had reviewed
2 responsive records, that's your recollection, correct?

3 A. Yes.

4 Q. And those are the documents you redacted?

5 A. Correct.

6 Q. And why did you not produce them?

7 A. I wasn't told to produce them at that point.

8 Q. So you were waiting for the okay from legal,
9 correct?

10 A. Correct.

11 Q. So in December, you review some documents; by
12 the time the Las Vegas Review-Journal files suit in
13 January, you haven't produced any of these documents
14 because you are still waiting for permission from
15 legal to do so, correct?

16 A. Correct.

17 Q. And then the Las Vegas Review-Journal files
18 suit?

19 A. Correct.

20 Q. And then you review additional emails?

21 A. Correct.

22 Q. Did you search for these additional emails?

23 A. No.

24 Q. Who searched for those additional emails?

25 A. Dan Wray.

1 Q. Did you get those directly from Dan Wray or
2 did you get them from legal?

3 A. I got those documents from Dan Wray.

4 Q. And did you know how he came to search for
5 them? Had you asked him to search for them?

6 A. I did not ask him to search for them.

7 Q. Do you know who asked him to search?

8 A. I believe legal told him to search, gave him
9 search terms. He searched those, and then he placed
10 the file on my lap -- or my desktop.

11 Q. Do you recall when that was that he placed
12 this file on your desktop?

13 A. I do not. The first one, I do not.

14 Q. When you say "the first one," what do you
15 mean?

16 A. There were several searches.

17 Q. So at some point, Dan -- at some point, it's
18 your understanding that legal gave Mr. Wray direction
19 to search for additional documents, and you started
20 getting documents from Mr. Wray to review?

21 A. Yes.

22 Q. And when you were -- when you were instructed
23 to review them, were you instructed to produce them,
24 or to provide them back to legal?

25 A. To provide them to legal once the search was

1 complete.

2 MS. McLETCHE: Understood. Okay.

3 What exhibit are we on, Court Reporter?

4 THE REPORTER: 18.

5 MS. McLETCHE: Okay.

6 Q. I understand -- I'm not going to ask you to
7 authenticate this. This is a certification of
8 Mr. Wray that was produced in this case, and attached
9 to it are some printouts of search terms and dates,
10 and what I believe are email custodians. It just
11 might help us with some of these dates.

12 And if you turn to the first page of it, in
13 the little corner it says LVRJ027. And at the top of
14 that page, it appears that there were -- that the
15 email boxes of Mike Barton and Pat Skorkowsky were
16 searched in December 9th -- on December 9th, 2016.

17 Do those appear to be the -- does this
18 refresh your recollection about whose emails you
19 searched in December?

20 A. I didn't search --

21 Q. I'm sorry. Whose email -- I apologize. I'll
22 withdraw and rephrase that question.

23 Does this document refresh your recollection
24 regarding whose emails you were reviewing when you
25 reviewed documents in December?

1 A. Yes.

2 Q. And whose they were?

3 A. Mike Barton and Pat Skorkowsky's emails.

4 Q. And those were the only emails that you
5 searched in December, that you recall?

6 A. Correct. I didn't actually search the
7 emails, though.

8 Q. I'm sorry, review.

9 A. Reviewed, yes.

10 MS. McLETCHE: I apologize. Thank you.

11 And we can mark that as Exhibit 18, and we
12 may turn back to that.

13 (Petitioner's Exhibit 18 was marked for
14 identification.)

15 BY MS. McLETCHE:

16 Q. So you mentioned that at some point Mr. Wray
17 started putting documents on your desktop. Do you
18 remember that he put them on your machine or he gave
19 you hard copies?

20 A. Put them on -- it's an icon on my desktop.

21 Q. Okay. So he gave you -- there were folders
22 that would appear on your desktop for you to review of
23 potentially responsive documents to the Las Vegas
24 Review-Journal's requests regarding Trustee Child,
25 correct?

1 A. Yes.

2 Q. Okay. Were you aware of any court orders
3 regarding how to redact documents for production and
4 how to search -- and what sources to search for in
5 this case?

6 A. No.

7 Q. You never saw any order --

8 A. No.

9 Q. You never saw any court order saying this is
10 what you were allowed to redact?

11 A. No, I don't recall.

12 Q. When you were reviewing these folders that
13 you received that showed up on your desktop that
14 Mr. Wray had put there through the magic of computers,
15 when you were reviewing them, were you reviewing these
16 folders for responsiveness?

17 A. Yes.

18 Q. In other words, you were evaluating whether
19 or not they were responsive to the request that the
20 Las Vegas Review-Journal had made?

21 A. At this point, it's a new request. And I
22 believe it was your request.

23 Q. Understood. Okay. We'll turn to that now.
24 Perfect timing.

25 And when you say my request, do you mean the

1 request that appears to be in front of you that I made
2 on behalf of the Las Vegas Review-Journal?

3 A. Yes.

4 Q. And that was sent on February 10th?

5 A. Yes.

6 Q. And did you receive it on February 10th?

7 A. I don't believe so.

8 Q. Do you recall when you received it?

9 A. I don't.

10 MS. McLETCHE: We'll mark that as Exhibit
11 19.

12 (Petitioner's Exhibit 19 was marked for
13 identification.)

14 BY MS. McLETCHE:

15 Q. At any point -- we talked about the December
16 request. Now if we refer to this to February 10th,
17 2017 request, we might refer to it as the February
18 request.

19 Will that make sense to you?

20 A. Yes.

21 Q. And you'll understand that I mean this
22 February 10th, 2017 letter request?

23 A. Yes.

24 Q. So at any point with regard to any documents
25 that were -- that you reviewed or handled in any way

1 for either the December request or the February
2 request or for court-ordered compliance, at any time
3 were you responsible for identifying where responsive
4 documents might be?

5 A. No.

6 Q. In other words, did you do any searching and
7 collection of documents, or did you only review --
8 have you only reviewed Trustee Child documents for
9 responsiveness and redaction?

10 A. I'm sorry; can you repeat?

11 Q. So have you done any searching for documents
12 for any of the Review-Journal's requests regarding
13 Trustee Child?

14 A. Other than the emails on my desktop, no.

15 Q. But you clarified to me that you didn't
16 collect the documents on your desktop, that Mr. Wray
17 put them in folders and they appeared there.

18 A. Correct.

19 Q. And that earlier, you got documents in
20 December from legal, correct?

21 A. Correct.

22 Q. So you received documents and then you
23 reviewed them, correct?

24 A. Correct.

25 Q. Did you do anything to go out and look for

1 responsive documents within CCSD?

2 A. No.

3 Q. In response to public records requests, do
4 you usually search for responsive documents?

5 A. I do.

6 Q. And how do you do that?

7 A. Depending on the request and where I feel the
8 information might be within another department, I'll
9 reach out to that area.

10 Q. Okay. Do you search -- when you receive a
11 request, do you only search -- do you usually only go
12 out and ask for emails and search for emails?

13 A. No.

14 Q. And what other places might you look for
15 responsive documents in response to a request?

16 A. To a request, depending on what type, again,
17 I'll go to a specific department and ask for whatever
18 it is that the request is. You know, they don't all
19 ask for emails.

20 Q. Was it your understanding that the Las Vegas
21 Review-Journal's requests for only for emails?

22 A. No.

23 Q. Was it your understanding that additional
24 documents were asked for?

25 A. I was under the understanding of what was

1 requested.

2 Q. And what was your understanding of what was
3 requested?

4 A. The information that was requested was any
5 information regarding several different situations
6 that possibly Trustee Childs (sic) had been in.

7 Q. Okay. And so when you say "information,"
8 that could be a document of -- that could be documents
9 of different types, correct?

10 A. Correct.

11 Q. So that could be emails?

12 A. Correct.

13 Q. That can be hard copies?

14 A. Possibly.

15 Q. And when you -- and sometimes you do search
16 for hard copy records in response to public records
17 requests, correct?

18 A. Correct.

19 Q. You don't limit all responses just to emails.
20 When you're responding --

21 A. Correct.

22 Q. I'm talking -- now, I understand you didn't
23 search for the responsive documents in this case. I'm
24 talking now about your general practice in your role
25 as public information officer at CCSD.

1 A. Yes.

2 Q. Okay. When do you -- when do you involve
3 legal in a response to a request for public records
4 and when do you not?

5 A. If I know exactly where the documents are
6 housed, I will go retrieve them. Then I send that
7 information to legal for advice on response.

8 Q. So legal reviews each and every Public
9 Records Act response?

10 A. Yes.

11 Q. So in this case, why didn't you go to
12 retrieve documents?

13 A. I did not think there were any documents that
14 anyone would have on a trustee.

15 Q. So when you received -- back in December when
16 you received the request from Ms. Pak-Harvey, you
17 didn't think there would be any responsive documents?

18 A. No, that's not what I --

19 Q. I'm sorry. Can you explain to me again,
20 then.

21 You said that you didn't think there would
22 be -- anyone would have any responsive documents on a
23 trustee.

24 A. A file kept on a trustee, let's say on
25 someone's desk.

1 Q. Okay.

2 A. I don't believe anyone would have hard copies
3 of a file on a trustee.

4 Q. Okay. So that's why -- sometimes -- but you
5 thought -- did you think people may have emails?

6 A. Yes.

7 Q. But you didn't look for emails?

8 A. We did look for emails.

9 MR. HONEY: Objection.

10 MS. McLEITCHIE: I'm asking -- go ahead, lodge
11 your objection.

12 MR. HONEY: Objection. Assumes evidence,
13 information not in evidence; specifically, that she
14 can even search for those emails.

15 MS. McLEITCHIE: Mr. Honey, I would ask you
16 not to make speaking objections, just for the record.

17 Q. So I'm asking why. Sometimes when you get a
18 Public Records Act request from the R-J or from any
19 other person making the request, sometimes you do,
20 yourself, go and search for responsive documents,
21 right?

22 A. Yes.

23 Q. And sometimes do you personally contact
24 Mr. Wray from information technology and ask him to
25 collect documents?

1 A. No.

2 Q. The requests for Mr. Wray always go through
3 legal --

4 A. Yes.

5 Q. -- is that correct?

6 A. Yes.

7 Q. Just for the record, let's make sure I finish
8 my question --

9 A. Yes.

10 Q. -- so we can have a clear record on the
11 transcript. Okay?

12 A. Yes.

13 Q. All right. So you didn't think there would
14 be any hard copy records in this case, so you
15 forwarded the request to legal?

16 A. Correct.

17 Q. That's the only reason you forwarded this
18 request to legal?

19 A. No.

20 Q. What were the other reasons you forwarded
21 this request to legal?

22 A. It appeared to be a high-level request, so I
23 wanted my guidance to be from legal.

24 Q. When you say "high level," what do you mean?

25 A. It's a trustee.

1 Q. So is it fair to say this request took longer
2 than the average public records request?

3 A. Yes.

4 Q. How long do you usually take to produce
5 responsive documents in response to requests?

6 A. It depends on the request.

7 Q. So -- but you did say that usually you
8 responded quicker?

9 A. Yes.

10 Q. So in this case -- in this case,
11 Ms. Pak-Harvey first requested documents on
12 December 5th, and the Review-Journal filed a lawsuit
13 in the end of January 2017, so at this point almost
14 two months elapsed, right?

15 A. Yes.

16 Q. And you don't remember any responsive
17 documents being produced before February, right, of
18 2017?

19 A. Correct.

20 Q. So that's over two months, right?

21 A. Yes.

22 Q. And is that longer than usual for --

23 A. Yes.

24 Q. -- public records?

25 A. Yes.

1 Q. Give Mr. Honey time to object, if he wishes
2 to.

3 So in this instance, the response took longer
4 than the typical Public Records Act response, correct?

5 A. Correct.

6 Q. So after the Las Vegas R-J filed suit in
7 February, you mentioned that folders started appearing
8 on your desktop of documents, and you were
9 instructed -- I don't want you to -- I'm not going to
10 ask you what Mr. Honey told you, but you were at some
11 point instructed to review those documents and redact
12 them; is that correct?

13 A. No.

14 Q. What were you instructed to do?

15 A. Just review.

16 Q. And review -- I'm sorry.

17 A. I don't review and redact all at the same
18 time. So I have to review first.

19 Q. Okay. So let's break this down for me so
20 we're clear we're using the same terms and I
21 understand how you go about things. Because I make
22 requests, but I don't respond to them, so -- and if
23 you can explain it to me, that would be great.

24 So you said you review and you redact. Those
25 are two different steps, correct?

1 A. Yes.

2 Q. So the first step, when you say you review,
3 that means that you look at documents and you
4 determine whether or not they're responsive to public
5 records request; is that correct?

6 A. Yes.

7 Q. So when I say "review," that's what you mean?

8 A. Yes.

9 Q. Okay. So in this case, you reviewed folders
10 that were placed on your desktop. Earlier, we talked
11 about documents that you looked at in December. And
12 all of those that you reviewed, you deemed were
13 responsive -- correct -- back in December?

14 MR. HONEY: Objection: compound question.
15 If you could rephrase that.

16 THE WITNESS: Could you repeat that?

17 BY MS. McLEITCHIE:

18 Q. Sure. When we talked about the documents
19 that you reviewed in December, you were provided a
20 universe of documents, correct?

21 A. Yes.

22 Q. And earlier when I asked you about it, you
23 stated that you thought they were all responsive
24 public records, correct?

25 A. Yes.

1 Q. Was this the case with all the documents you
2 looked at later?

3 A. No.

4 Q. And so at some point, you reviewed additional
5 documents that you received on your desktop from
6 Mr. Wray?

7 A. Yes.

8 Q. And you started looking at those documents
9 before May, correct?

10 A. Yes.

11 Q. And so you started -- you started looking at
12 these documents and deciding whether or not they were
13 responsive to the requests, correct?

14 A. Yes.

15 Q. Are you talking about the February request or
16 the December request or both?

17 A. February.

18 Q. So when you were looking at the documents
19 after -- after what you looked at in December, when
20 you looked at documents after -- starting in February
21 of 2017, you were only looking at documents -- for
22 documents that you deemed to be responsive to the
23 February 10th request from my office, correct?

24 A. Yes.

25 Q. And when you were evaluating whether or not a

1 document was responsive, can you explain to me how you
2 made that determination?

3 A. Yes. They're all emails. I had to read each
4 email, and I read through everything in that folder to
5 see if there was anything responsive to the request.
6 If there was, I would print that email.

7 Q. And then when you would print the email,
8 where would it go?

9 A. Once I was completely done with that file,
10 those printed emails would be scanned and sent to
11 legal.

12 Q. And then you mentioned there was a second
13 step of redacting. Were you involved in redacting
14 documents -- redacting documents after December in
15 this case?

16 A. Yes.

17 Q. And so the first step is you review for
18 responsiveness, you print them out, they go to legal.

19 When did redacting happen?

20 A. Once legal had their review, they would send
21 those documents back to me highlighted, and I would
22 redact.

23 Q. So it was a different set of documents --
24 when you did the final review for redactions, it could
25 have been a different set of documents than the one

1 you originally sent to legal, correct?

2 A. It was a scanned copy that I sent to legal.
3 They would print those out, highlight that
4 information, and then I would get hard copies back.

5 Q. Okay. When legal looked at the documents,
6 were -- did all the documents that you sent to
7 legal -- right? -- that you said these are all
8 responsive, did you receive those all back to be
9 redacted?

10 A. Yes.

11 Q. Okay. And do you recall these searches that
12 we're talking about, were those all in February?

13 A. I don't recall if everything was in February.

14 Q. Okay. So now we've talked about -- we've
15 talked about -- my understanding is we've talked about
16 sort of two batches of review on your part, one that
17 happened -- that you think happened in December of
18 2016 in response to the December request, and then a
19 second set of reviewing of responsive documents that
20 occurred in response to the February request from my
21 office. Correct?

22 A. Yes.

23 Q. And did you do additional review besides the
24 review for the December request and the review for the
25 February request?

1 A. No.

2 Q. Okay, so this is a certification that you
3 provided in this case.

4 Does this look familiar?

5 A. Yes.

6 Q. Is that your signature on the second page?

7 A. Yes.

8 Q. Okay. On paragraph -- in paragraph 3, here
9 is where I'm trying to figure out what's going on. It
10 says, "I have personally reviewed 11,907 emails
11 provided by Dan Wray, executive director of technology
12 information systems department, between the dates of
13 May 10th and May 15th to identify emails responsive to
14 the December and February records requests made by the
15 Las Vegas Review-Journal."

16 When did -- so this is a review that happened
17 in May, is that correct?

18 A. Yes. Uh-huh. Yes.

19 Q. So this is in addition to the two searches
20 and two sets of documents we're talking about before;
21 is that correct?

22 A. (No response.)

23 Q. We had talked about December, in December you
24 reviewed documents?

25 A. Yes.

1 Q. And then we were just speaking about
2 documents that you think you were reviewing for
3 responsiveness and then later on for redactions -- you
4 were making redactions on in February, correct?

5 A. I believe so.

6 Q. Do you think it could have been another time?

7 A. No.

8 Q. Do you -- is this a separate set of review
9 that you were doing in May?

10 A. Yes, I believe so.

11 Q. Okay. And it says here that you personally
12 reviewed 11,907 emails provided by Dan Wray between
13 these two -- between just May 10th and May 15th.

14 So this isn't -- this certification isn't
15 discussing what you did in December or what you did --
16 what you believe you did in February, correct?

17 A. Correct.

18 Q. So this is just between May 10th and May 15th
19 of 2017. And you reviewed 11,907 emails between those
20 dates, correct?

21 A. Yes.

22 Q. That's a lot of documents to look at.

23 A. Yes.

24 Q. And again you searched those for
25 responsiveness?

1 A. Yes.

2 Q. So you identified -- you were -- you were
3 solely responsible for identifying from the
4 documents -- you don't know how they were collected,
5 but once they got placed on your computer in these
6 folders from Mr. Wray, you were solely responsible for
7 determining what documents were responsive to the
8 public records requests or court orders in this case,
9 correct?

10 A. Yes.

11 Q. And in paragraph 5, it sounds like you
12 identified just 43 pages.

13 A. Yes.

14 Q. So of all those emails, just 43 pages were
15 responsive?

16 A. Yes.

17 Q. And so you provided those documents -- you
18 provided those documents to counsel?

19 A. Yes.

20 Q. So in this case -- in this case, there has
21 actually been more than these 43 pages produced;
22 additional documents were identified and produced
23 after this date.

24 Do you recall that?

25 A. (No response.)

1 Q. Do you have any idea how or why any, after
2 this -- after May 15th there would be more than 43
3 pages that were produced, where those would have come
4 from?

5 A. Unless it was my email searches, I do not
6 know what specifically you're talking about.

7 Q. Okay. So you said your email searches. Do
8 you just mean that -- your review for responsiveness
9 of the folders of emails that you received on your
10 desktop from Mr. Wray?

11 A. Yes.

12 Q. So you didn't actually go search anybody's
13 emails?

14 A. No.

15 Q. And you had nothing to do with figuring out
16 how we find responsive documents in response to any of
17 these requests, right?

18 A. I'm sorry; could you --

19 Q. You weren't involved in determining whose
20 emails to search?

21 A. Correct.

22 Q. Or where to find responsive documents?

23 A. Correct.

24 Q. That wasn't part of your job in this case?

25 A. Correct.

1 Q. Okay. With regard to either the December
2 request or February request or any court order,
3 correct?

4 A. Correct.

5 Q. Okay. So at some point in May, you reviewed
6 these 11,907 emails, which is a lot to review in
7 five -- in that time period. And you identify 43
8 pages, and you handed them over to legal counsel,
9 correct?

10 A. Yes.

11 Q. After that can date, did you do any other
12 review for responsiveness?

13 A. After May. I don't recall.

14 Q. Would anybody else have been responsible for
15 reviewing documents for responsiveness?

16 A. No.

17 Q. On this case, no?

18 A. No. Other than what I sent to legal and then
19 they review.

20 Q. But nobody else that -- nobody -- no other
21 public information officer was assigned to this
22 matter, correct?

23 A. Correct.

24 Q. You're the only -- and legal was not
25 reviewing for responsiveness; you were reviewing for

1 responsiveness, correct?

2 A. Right.

3 Q. You were culling through all the emails,
4 correct?

5 A. Right.

6 Q. I want to talk a little bit more about what
7 your process is when you have all these emails.

8 You had 11,907 emails. So some of them could
9 have been more than one page, right?

10 A. Yes.

11 Q. And the -- this is a lot of documents. How
12 did you go about -- how do you -- what's your process
13 in reviewing documents for responsiveness?

14 A. I literally open that file which shows every
15 email listed that was from the search term, and I open
16 them up to see if they're responsive. Now, some of
17 them can be duplicates, and if you can't spot a
18 duplicate, you know, I will print that as a duplicate.
19 But I have to read -- open every email, read it to see
20 what it's about. And a lot of them, you know, are not
21 responsive.

22 Q. When you say -- we keep saying "not
23 responsive," so let's see if we can get on the same
24 page with responsive, what isn't responsive.

25 For the Las Vegas Review-Journal's request,

1 what emails did you determine were not responsive and
2 not worth producing?

3 A. Emails such as appointments Trustee Childs
4 might have had, visits to schools, secretary emails to
5 him that say you're scheduled for this, you're
6 scheduled for that, stuff like that.

7 Q. Okay. Anything else that you can remember?

8 A. As far as?

9 Q. Any other types of emails or documents that
10 you remember looking at and thinking these aren't
11 responsive?

12 A. Just day-to-day business emails back and
13 forth were not responsive.

14 Q. Okay. And what types of emails did you
15 determine were responsive in this case?

16 A. Any email that indicated any of the bullet
17 points that were requested.

18 Q. Okay. So let's go back. When you say
19 "bullet points," we're talking about the bullet points
20 in the February letter that I sent; is that correct?

21 A. Yes. Yes.

22 Q. So did you have that letter open?

23 A. Yes.

24 Q. And so you had -- there's a lot of bullet
25 points here in my letter.

1 A. Yes.

2 Q. So you had this letter open.

3 Did you give yourself a checklist or anything
4 like that of documents to look for?

5 A. Not a checklist. What I do is I have both
6 these pages side by side sitting here, and I read this
7 so I know what I'm looking for in response.

8 Q. Was there -- I'm sorry. Go ahead; I didn't
9 mean to cut you off.

10 A. (Shakes head.)

11 Q. Was there anything that was in a gray area
12 that you weren't sure was responsive? Were there any
13 documents like that?

14 A. I'm sure, yes.

15 Q. And when that happens, what do you do?

16 A. Print those.

17 Q. And provide them to legal?

18 A. Yes.

19 Q. So if you think something might be
20 responsive, you let legal make the call?

21 A. Yes.

22 Q. And do you remember documents that might have
23 been in the gray area here?

24 A. I don't.

25 MS. McLETCHE: Can we take a brief break.

1 THE REPORTER: Did you want to mark --

2 MS. McLETCHE: Let's mark the certification
3 as Exhibit 20.

4 Thank you very much.

5 (Petitioner's Exhibit 20 was marked for
6 identification.)

7 (Recess taken.)

8 BY MS. McLETCHE:

9 Q. Here you go.

10 A. Okay.

11 Q. Ms. Smith-Johnson, does this appear to be a
12 response to my February 10th, 2017 request on behalf
13 of the Las Vegas Review-Journal for records regarding
14 Kevin Child?

15 A. Yes.

16 Q. So you responded to this request on
17 February 17th, and this looks like a correct copy of
18 that document?

19 A. Yes.

20 MS. McLETCHE: We will mark that as Exhibit
21 21.

22 (Petitioner's Exhibit 21 was marked for
23 identification.)

24 BY MS. McLETCHE:

25 Q. At this point you say, in this email -- you

1 can take it back -- it says you anticipate a further
2 response on March 3rd, 2017.

3 What else had to be done at this point to
4 produce documents in response to my request?

5 A. I'm sorry; could you repeat your question?

6 Q. Why did you anticipate -- why did you need
7 more time to anticipate a further -- why did you
8 anticipate a further response?

9 A. I don't believe that any documents had been
10 responsive and returned back to requester at that
11 point.

12 Q. At this point, had you looked at any
13 responsive documents -- any documents that were
14 potentially responsive to the February 10th request
15 that I made?

16 A. In February, I believe there were documents,
17 but I don't recall at that point.

18 Q. Earlier, we talked about the fact that you
19 couldn't -- you were waiting for the okay in December
20 to produce documents in response to the December
21 request, right? You were waiting for the okay from
22 legal, right?

23 A. Correct.

24 Q. Were you again waiting for response, okay
25 from legal for the February 10th request?

1 A. Yes.

2 Q. And you couldn't produce any documents until
3 you had the okay from them?

4 A. Correct.

5 Q. Can we go back to Exhibit 18, the Wray
6 certification that's in front of you. And if we turn
7 back to that exhibit there, you can kind of -- if you
8 want to look through it for a second. The way it
9 looks to me -- but I want you to look at it too --
10 it's in date order and it shows a name, terms, and
11 then a date.

12 And it looks to me like after December 9th,
13 the first time any additional documents were -- at
14 least any emails -- were searched for is
15 February 21st, 2017.

16 A. I don't know what his -- I don't know what
17 that date is for him.

18 Q. But if he didn't search -- assuming that this
19 is the date that he searched for documents, you
20 couldn't have reviewed any documents before he gave
21 you documents to look at?

22 A. Right.

23 Q. So you couldn't have done -- assuming this
24 date reflects that this is the date he did a search
25 on, then you could not have -- you couldn't have

1 looked at any responsive documents before?

2 A. Correct.

3 Q. And -- okay. And you have no reason to
4 think -- if you go back to the first page, this is a
5 "Certification of Dan Wray," and it says that he
6 conducted the searches, and you have no reason to
7 think he didn't accurately reflect when searches were
8 conducted, right?

9 A. Right.

10 Q. Do you recall receiving batches of documents
11 on the various documents reflected on this attachment?
12 If you look through, it says December 9th, and then it
13 says February 21st, February 22nd, March 28,
14 May 12th -- I'm sorry, April 5th, I missed that one --
15 May 12th, and I believe there is one more date --
16 May 12th, and May 15th.

17 Do you remember receiving documents from him
18 in batches around these dates?

19 A. Yes.

20 Q. And when you talked about documents that you
21 reviewed in May in your certification, do you know
22 which of these documents that corresponds to?

23 A. I don't.

24 Q. Okay. You just remember three kind of sets
25 of review for you -- the December, the February, and

1 then the May -- correct?

2 A. I don't believe that's complete.

3 Q. Okay. So let's go back to it, because I want
4 to make sure I'm not missing anything.

5 A. Okay, yeah.

6 Q. You testified that you reviewed responsive
7 documents in December, right?

8 A. Yes.

9 Q. And when is the next time you think you
10 reviewed responsive documents?

11 A. February maybe.

12 Q. February. And again these are all documents
13 that were placed on your -- provided to you?

14 A. Yes.

15 Q. Okay. So February, you remember reviewing
16 documents in February?

17 A. Yes.

18 Q. Do you remember reviewing documents before
19 May 5th -- before May -- between February and May?

20 A. I don't.

21 Q. Okay. So you said that what I said earlier
22 wasn't accurate. Explain to me why it wasn't
23 accurate.

24 A. You had mentioned three sets of reviews.
25 That's what I thought I heard. I've looked at a lot

1 more than three sets of --

2 Q. I apologize. So when you say -- when I say
3 "sets," I'm not talking about folders of documents or
4 anything like that; I'm talking about three time
5 frames in which you were reviewing documents. One was
6 in December, one was in February, and one was in
7 March. Correct?

8 A. Correct.

9 Q. I'm sorry; not March. One in December, one
10 in February, and one in May?

11 A. Correct.

12 Q. And those are the only time frames in which
13 you recall reviewing and producing documents?

14 A. No.

15 Q. Okay. So when else do you recall reviewing
16 and producing documents?

17 A. I believe there were documents reviewed in
18 amongst those time periods from like May -- February
19 to May. I can't tell you specific dates, but I know
20 that it was more than just three times that I reviewed
21 documents, you know, February --

22 Q. Okay.

23 A. -- December, February, and May.

24 Q. Understood. In your -- in your
25 certification, going back to -- that's Exhibit 20 --

1 you identify documents that you reviewed between
2 May 10th and May 15th.

3 A. Yes.

4 Q. That's all that's spelled out here.

5 How did you -- obviously when you are writing
6 that, you have a more clear memory or access to
7 information to help your memory, than you have right
8 now, right?

9 A. Yes.

10 Q. You were able to give exact dates. Right
11 now --

12 A. Yes.

13 Q. Right now you think sometime in December,
14 sometime in February, but you don't remember exact
15 dates, right?

16 A. Right.

17 Q. Okay. So -- and this certification only
18 deals with a review that you did in May --

19 A. Yes.

20 Q. -- it says May 10th to May 15th?

21 A. Yes.

22 Q. Okay. So how did you -- how did you figure
23 out the specifics of this search? The review that you
24 did for responsive records between May 10th and
25 May 15th, when you were writing your certification,

1 how did you figure that out?

2 A. The time frame that I was told to review was
3 just the May time frame. So with the 11,000
4 documents, that was just that time frame.

5 Q. I'm sorry. What do you mean, when you were
6 told to review?

7 A. Well, when the case came up and I was told to
8 review what I had done so that I could document it, it
9 was just based on what had happened in May.

10 Q. Okay. So you could have provided additional
11 information about what you did in December or in
12 February or maybe other dates between February and
13 May, correct?

14 A. Correct.

15 Q. But you were told to only document what you
16 did between May 10th and May 15th?

17 A. We were only looking at that 11,000 -- those
18 specific 11,000 emails --

19 Q. Okay.

20 A. -- which came within that time frame.

21 Q. So what I'm trying to figure out is what are
22 the other -- what are these other emails you looked at
23 and when did you look at them?

24 A. I don't recall the dates specific to the
25 other searches from Dan Wray.

1 Q. But you could -- you could provide that
2 information with specificity if you were at your
3 computer right now, for example, correct?

4 A. Correct.

5 Q. Because you were able to figure it out for
6 the searches --

7 A. Yes.

8 Q. -- that were --

9 A. Yes.

10 Q. I'm sorry; the review for responsive records
11 that you reviewed between May 10th and May 15th?

12 A. Yes.

13 Q. So you could do that for any of the other
14 dates that we've been talking about today. We've been
15 muddling through it a little bit together trying to
16 make sure that I'm understanding you. But you could
17 do this easily sitting at your computer, correct?

18 A. Correct.

19 Q. Okay. But you were only told to do for
20 this one set of review that you did?

21 A. Correct.

22 Q. And you were told by counsel?

23 A. Yes.

24 Q. Let's talk a little bit about your -- just
25 some general -- some general -- some general things

1 and policies. We talked about a little bit -- we've
2 talked a little bit about this as we've been going
3 through with regard to the Child requests, but I'm
4 just trying to make sure what your policy is when
5 you'd get Public Records Act requests.

6 I think you said, generally when you get a
7 request, you start a file.

8 A. (Nods head.)

9 Q. What does that mean?

10 A. I actually start a file, manila folder, label
11 it with the title of the request. That's when I mark
12 down my dates, reply dates, and then I determine who
13 might have those specific documents that they're
14 requesting. And then I will email or I will phone
15 call the department managers and try to obtain that
16 information.

17 Q. When you say you try to determine who might
18 have responsive records, how do you figure that out?

19 A. Well, it -- as an example, if it's for
20 something to do with budget, then I would go to the
21 budget department. A lot of times, there might be
22 different requests all rolled into one. I'll have to
23 obtain one item from budget, another item from another
24 department, from HR, all for the same request.

25 Q. So based on the request, you try to figure

1 out where the documents might be --

2 A. Yes.

3 Q. -- and you go there and you try to get them?

4 A. Yes.

5 Q. Okay. And do you usually provide responsive
6 documents within five days, or what's your usual
7 practice?

8 A. I have five days to respond back to the
9 requester whether I have documents or not. Within
10 those five days, I hope to have at least a time frame
11 of the other department providing me with that
12 information so that I can base a further response off
13 of those dates.

14 Q. In this case, did you tell Ms. Pak-Harvey
15 within five days of her original December request
16 whether or not responsive records existed?

17 A. I don't word it like that.

18 Q. Ah. So -- I'm sorry.

19 How do you word it?

20 A. Within five days on this particular case, I
21 didn't know if there were responsive documents. So,
22 no, I would not have told her that we did or did not
23 have responsive documents within five days.

24 Q. Did you tell her you had to ascertain whether
25 or not responsive records existed?

1 A. I don't recall that wording.

2 MS. McLEITCHIE: I think, going back to --
3 back to -- here's another document.

4 What exhibit are we on?

5 THE REPORTER: 22.

6 (Petitioner's Exhibit 22 was marked for
7 identification.)

8 BY MS. McLEITCHIE:

9 Q. So in this response, for example, you say, "I
10 have received your request and am processing it." You
11 don't tell her whether responsive records exist,
12 right?

13 A. Correct.

14 MR. HONEY: Objection. Record speaks for
15 itself.

16 BY MS. McLEITCHIE:

17 Q. I'm sorry; go ahead.

18 A. I do not tell her. I do not know that at
19 that point.

20 Q. And at some point -- at some point, going
21 back to Exhibit 6, you had told her, "We're unable to
22 provide the information to you within five business
23 days." And you just said, "We anticipate a further
24 response by close of business day..."

25 Is that because you didn't know whether

1 responsive documents existed?

2 A. Yes.

3 Q. But usually, if you can ascertain whether or
4 not responsive documents exist, you do let them know
5 whether responsive documents exist?

6 A. No.

7 Q. You just say, I'll provide further response?

8 A. Yes.

9 Q. Is there a policy that you're following when
10 you respond in that manner?

11 A. In what manner?

12 Q. When you just say -- when you don't identify
13 whether or not -- when you get a public records
14 request, within the five days your general practice is
15 to respond and say I anticipate a further response and
16 then you give a date, correct?

17 A. Correct.

18 Q. When you are responding to requests in this
19 manner, are you following any CCSD policy?

20 A. I don't believe it is a policy. It is a
21 public records law that gives us the five days. It
22 doesn't say that I have to tell the requester if there
23 are documents or not, and most of the time, in five
24 days, I don't know that yet. I just want them to be
25 aware that I have received that -- their request and I

1 am working on it.

2 Q. So the five days -- the five -- in your view,
3 the five-day response that's required in the Public
4 Records Act is just to acknowledge receipt and tell
5 them you're working on it?

6 A. Yes.

7 Q. Okay. How long have you been working at
8 CCSD?

9 A. 15 years.

10 Q. What's your title?

11 A. Document Control Specialist.

12 Q. Has that been your title the entire time you
13 have worked there?

14 A. No.

15 Q. What was your title when you started?

16 A. I started as a substitute teacher.

17 Q. Oh.

18 A. And then became support staff. I think I was
19 a Specialist 1 or something like that.

20 Q. Okay. How long have you been -- tell me
21 again the formal title.

22 A. Document Control Specialist.

23 Q. How long have been a Document Control
24 Specialist?

25 A. I believe 12 years.

1 Q. 12 years?

2 A. Uh-huh.

3 Q. At CCSD?

4 A. Yes.

5 Q. How many requests do you think you have
6 responded to in this time?

7 A. Well, I haven't been doing this job for 12
8 years. I've been a Document Control Specialist in
9 other capacities. But in this particular case, I
10 think six years.

11 Q. So six years, you have been --

12 A. Yes.

13 Q. -- responsible for responding to public
14 records requests?

15 A. Yes.

16 Q. Who do you report to?

17 A. Currently, I report to Nicole Rourke.

18 Q. And what's her title?

19 A. She's the new chief of communication --
20 community government relations.

21 Q. Did you communicate with her about the
22 requests for records concerning Trustee Child?

23 A. I did not.

24 Q. And why was it that you did not communicate
25 to her if you report to her?

1 A. She was in Carson City this whole time. She
2 receives a report from me of what I'm doing, but she
3 knows that I work diligently with legal.

4 Q. You work closely with legal?

5 A. Yes.

6 Q. Do you work with them on every single public
7 records request?

8 A. Yes.

9 Q. You hesitated. There are some requests that
10 you might just respond to?

11 A. There could be.

12 Q. When would you just respond to one without
13 including legal?

14 A. If it's something that we have done before
15 and it's repetition.

16 Q. So if I were --

17 A. And it's been -- sorry.

18 Q. No, go ahead.

19 A. If it's something that's been released before
20 and it's just repetition --

21 Q. Okay.

22 A. -- it's okay just to send it out; it's an
23 update, it goes out.

24 Q. Okay. Can you think of any instance when you
25 wouldn't involve legal, other than reproducing a

1 document?

2 A. No.

3 Q. Okay. In this case, you did involve legal.
4 Is this the longest it's ever taken to get back to a
5 Public Records Act request?

6 A. I don't know. I don't recall.

7 Q. Do you track how long it takes you to respond
8 to public records requests?

9 A. I do. I think I do. I have a tracking
10 system and -- I could figure it out. It's not
11 something that this one took me 100 days, this one
12 took me 5 days; I don't keep a document like that.

13 Q. When you say you have a tracking system, what
14 is that tracking system?

15 A. Just system that tells me when something is
16 due, when the five days is coming, when two weeks
17 after that is coming. I could, you know, track it
18 like that.

19 Q. What is that system?

20 A. It's calendaring. I just --

21 Q. Oh, okay. So you have a calendar that
22 reflects when you received a request, when you
23 responded to it, and when you produced documents?

24 A. Yes.

25 Q. Is it like an Outlook calendar, or is it a

1 hard copy calendar?

2 A. It's a hard copy.

3 Q. So you write all of this stuff out?

4 A. I do.

5 Q. Wow.

6 How many other people are responsible for
7 responding to Public Records Act requests?

8 A. No one.

9 Q. No one. Is it all that you do; is it your
10 only job duty?

11 A. Yes.

12 Q. And you are responsible for responding --
13 with assistance from legal and your supervisor, you
14 are responsible for responding to each and every
15 public records request that comes to Clark County
16 School District?

17 A. Yes.

18 Q. Do you like your job?

19 A. I do.

20 Q. What do you see as the purpose of your job?

21 A. To help -- to help get information that
22 belongs out to requestors out.

23 Q. Do you see part of your job as keeping
24 information out of the request that doesn't belong
25 out?

1 A. No.

2 Q. Then why do you involve legal and why do you
3 redact?

4 A. That's --

5 MR. HONEY: Objection. Argumentative.

6 THE WITNESS: That's my process. That's the
7 way I have to do it.

8 BY MS. McLEITCHIE:

9 Q. So you keep a hard copy calendar.

10 You have also mentioned that you send your
11 supervisor reports of what you're doing. Is that only
12 when she's in Carson City or is that all the time?

13 A. It's -- to be honest, I don't believe I have
14 bothered her when she was in Carson City. So when she
15 is in Vegas in the office.

16 Q. Do you have a routine time frame -- I'm
17 sorry; I didn't mean to cut you off.

18 A. No.

19 Q. Do you have a routine time frame in which
20 you -- is it every couple weeks, every month, every
21 quarter -- that you provide reports to your
22 supervisor?

23 A. There is no specific -- I don't do it every
24 week or every two weeks. If -- I don't have a set
25 date.

1 Q. And those just -- do those just go to her?

2 A. No.

3 Q. Who else do they go to?

4 A. Legal.

5 Q. And on those reports, do you list each -- do
6 you list all your open requests?

7 A. Yes.

8 Q. And all your closed requests?

9 A. No.

10 Q. Do you list -- do you list a request that has
11 recently become closed since the last report?

12 A. No.

13 Q. No. So the only thing that's reflected in
14 these reports are open requests?

15 A. Active, yes.

16 Q. And what the dates, the due dates, are?

17 A. Yes.

18 Q. Anything else?

19 A. No.

20 Q. So will it identify who the requester is?

21 A. Yes.

22 Q. Will it identify what the request is for?

23 A. Maybe a synopsis of it.

24 Q. Okay. And then it will list date you
25 responded?

1 A. No.

2 Q. No. What else will it list?

3 A. It just has a due date, when it's due, and
4 where we're at, what I'm waiting on.

5 Q. Okay. So it has the requester, the date the
6 request was made, I'm assuming. Is that correct?

7 A. No.

8 Q. No.

9 A. It just has the due date.

10 Q. Okay. Has the requester, the due date, a
11 synopsis of the request, and status?

12 A. Correct.

13 Q. Is that -- anything else, or is that all of
14 it?

15 A. I think that's all of it.

16 Q. All right. Earlier -- I'm going to turn to
17 this in a second, but earlier we were talking about
18 searching, and it's my understanding that -- I
19 understand that Mr. Wray searched for all the emails,
20 electronic records, responsive to this request.

21 Do you have access to people's email boxes?

22 A. I do not.

23 Q. So you don't conduct email box searches?

24 A. No.

25 Q. Do you have any direct access to any other

1 files at CCSD, other than your own files?

2 A. No.

3 Q. No?

4 A. No.

5 Q. So you mentioned the folder that showed up on
6 your -- the folders of potentially responsive
7 documents regarding Trustee Child that showed up on
8 your computer.

9 A. Yes.

10 Q. Are those on your -- those are -- are those
11 on your local computer? Where -- how do you see
12 those; those are on your local computer?

13 A. They're on my desktop.

14 Q. Okay, so on your desktop.

15 What else is on your desktop?

16 A. Those particular emails are on my desktop in
17 my InterAct. So in my email, not actually on my
18 computer, work computer.

19 Q. I understand. So they're folders sort of
20 like within an email system?

21 A. Yes.

22 Q. Okay. So they look like any other email
23 folder that you might personally save?

24 A. Yes.

25 Q. So if you saved all emails from Mr. Honey,

1 and you had an email inbox that said Mr. Honey that
2 looks like a folder, and then there's another folder
3 that says documents received from Mr. Wray and
4 whatever date?

5 A. Yes.

6 Q. Is it like Outlook or something like that?
7 Is this InterAct --

8 A. It's an InterAct -- I don't think it looks
9 like Outlook.

10 Q. But it's an email -- it's an email system?

11 A. Yes.

12 Q. And there are inboxes?

13 A. Uh-huh.

14 Q. Sent boxes?

15 A. Yes.

16 Q. And you can create folders?

17 A. Yes.

18 Q. And you can create subfolders?

19 A. Yes.

20 Q. It's sort of like Outlook.

21 Okay, so that's where those documents were.

22 Besides InterAct, what else -- what other
23 CCSD documents can you access from your computer?

24 A. I can't access documents from my computer
25 that are housed in other areas.

1 Q. So what can you access?

2 A. Documents that I have saved.

3 Q. So only documents that you have saved?

4 A. Yes.

5 Q. You don't have access -- so only documents
6 that you have saved personally, that's all you have
7 access to on your computer?

8 A. Yes.

9 Q. What about CCSD policies or anything like
10 that?

11 A. Policies and procedures, you can go out into
12 the CCSD website and look at those.

13 Q. Just like I can?

14 A. Yes.

15 Q. Okay. In front of you, you actually happen
16 to have a CCSD regulation. Have you seen this before?

17 A. Yes.

18 Q. And what is this regulation; what does it
19 pertain to?

20 A. Retention of documents.

21 Q. And if you turn -- it's very long --

22 MR. HONEY: Real quickly, I'm going to object
23 as to relevance to the case at hand.

24 You can go ahead.

25 BY MS. McLEITCHIE:

1 Q. We can keep talking. He can lodge his
2 objections, we can keep talking.

3 So this looks like it's a retention policy
4 that deals with records that people are supposed to
5 save, right? What has to be saved and what doesn't
6 have to be saved; is that generally what your
7 understanding of the retention policy is?

8 A. Yes.

9 Q. What it covers?

10 A. I would -- I would agree.

11 Q. Is there anything I'm missing?

12 A. I don't think so.

13 Q. Okay. So if you turn to page 19, which is
14 towards the end -- it's a long policy. The second to
15 last page.

16 And you have seen this policy before, right?

17 A. I believe so.

18 MS. McLEITCHIE: Alina, would you pull it up
19 on the website and confirm it's the correct version.

20 MS. SHELL: Sure.

21 BY MS. McLEITCHIE:

22 Q. So I'm going to give you a second to look at
23 it.

24 A. Okay.

25 Q. Have you had enough time to read it?

1 A. Uh-huh.

2 Q. Are you familiar with this policy?

3 A. Yes.

4 Q. And it appears to me -- it appears to me, and
5 I want you to correct me if I'm wrong, but it appears
6 to be a policy that pertains to public records that
7 are emails and what somebody is supposed to do with
8 that record. Is that correct?

9 A. Yes.

10 Q. And it says in the middle that, Once an email
11 transmittal is determined to be a public record,
12 district employees have an obligation to apply the
13 appropriate records retention schedule. For retention
14 purposes, the records should be maintained in an
15 easily accessible location, which may include printing
16 out a copy and filing a hard copy in the relevant
17 subject matter file; or, 2) moving the file out of the
18 email system and storing a copy of the email in an
19 electronic document management system.

20 So can you tell me what the electronic
21 document management system this refers to in the
22 bottom here is?

23 A. I cannot.

24 Q. Have you ever moved a file out of the email
25 system and stored it in an electronic document

1 management system?

2 A. I'm not sure what they refer to as an
3 electronic document management system. We don't have
4 a document management system.

5 Q. Okay. So it says that one of the things that
6 you can do -- it says, For retention purposes, the
7 records should be maintained in an easily accessible
8 location, which may include: 1) printing out a copy
9 and putting it in a hard copy file; 2) moving it and
10 storing it in an electronic document management
11 system.

12 A. Yes.

13 Q. You don't know what the electronic document
14 management system is?

15 A. Not specific to -- if there is a specific
16 system they are referring to, I don't not know what
17 that is.

18 Q. Well, do you know what they're referring to
19 when they say "an electronic document management
20 system"?

21 A. I can only imagine that it would be someone's
22 individual choice to store it however they choose to.

23 Q. Okay. Have you ever asked somebody for
24 records that are stored in their electronic document
25 management system?

1 A. I have not.

2 Q. And then the other option it gives for public
3 records is it says, "Printing out a copy and filing a
4 hard copy in the relevant subject matter file."

5 Do you know what this is referring to, "in
6 the relevant subject matter file"?

7 A. If it is referring to me -- because this is
8 for everyone in the district to follow. So if I was
9 going to follow this, and I'm referring to myself, it
10 would be my file that I keep of anything that
11 references a request that they may have an email for.

12 Q. So it sounds like there are two options
13 here --

14 A. Right.

15 Q. -- for public records for employees, right?

16 A. Yes.

17 Q. One is to print it out and put it in a hard
18 copy, or save it in an electronic document management
19 system?

20 A. Yes.

21 Q. And do you follow this policy?

22 A. I do.

23 Q. And so you print out -- you follow this
24 policy by printing out and filing a hard copy?

25 A. Yes.

1 Q. And when you say "hard copy" -- when we say
2 "hard copy" of the relevant subject matter file, as
3 you interpret this policy and apply it to yourself,
4 are we talking about the files like you mentioned you
5 created for this case -- for this matter?

6 A. As my storage, yes.

7 Q. So in -- for the requests from the Las Vegas
8 Review-Journal, there is the December request, there
9 is the February request, there is various times you
10 looked at documents. Is all of the work about this
11 request in one file? About -- the requests from the
12 Las Vegas Review-Journal for records pertaining to
13 Trustee Child, are they all in one hard copy file, or
14 do you have multiple hard copy files?

15 A. There's two requests here that we're talking
16 about are so there is two files.

17 Q. Okay, understood. When you say "two
18 requests," are you treating the two December requests
19 as one request?

20 A. (No response.)

21 Q. She supplemented the request; remember we
22 went over that?

23 A. Yes, the supplement is one request in
24 December, and then another one in February, yes.

25 Q. Okay. What have you printed out and put in

1 the hard copy file about the December request or about
2 the February request?

3 A. I have copies of all the emails that we have
4 looked at today in those files, depending on which
5 file it's for. And I have copies of responses that I
6 have gotten from the requester in that file. And then
7 I have copies of emails that were printed out for
8 that -- for that individual file.

9 Q. When you say "emails that were printed out,"
10 do you mean the responsive records?

11 A. The responsive records.

12 Q. Responsive records to the public records
13 request?

14 A. Correct.

15 Q. So in your public records file about a public
16 records request, you've got the requests, the
17 responses, and the documents that were responsive?

18 A. Correct.

19 Q. And are they sitting -- and they sit there in
20 your hard copy file.

21 What about your communications with, say,
22 Mr. Wray about a public records request, would those
23 sit in that file as well?

24 A. Repeat that, please.

25 Q. Let's say you emailed Mr. Wray and said, I'm

1 looking for the folder of Child emails. Would that
2 email to Mr. Wray be printed out and put in this hard
3 copy --

4 A. Yes.

5 Q. -- file?

6 A. Yes.

7 Q. Let's make sure I finish my question just so
8 the court reporter can make a good record.

9 So that would be in there. What about your
10 communications with legal about these public records
11 requests?

12 A. Yes.

13 Q. So this is how you -- this is kind of how you
14 handle it.

15 Have you ever gone to -- have you ever gone
16 to anybody within the school district and asked them
17 to see their hard copy file of public records?

18 A. Any public records?

19 Q. Well, when you have looked at -- sometimes
20 you directly go and look and search for responsive
21 records, right? We talked about that earlier.
22 Sometimes you --

23 A. This --

24 Q. I sorry.

25 Any kind of responsive records to a public

1 records request, sometimes you get a request and go
2 out and do the work of going out and searching for
3 responsive records, right?

4 A. (No response.)

5 Q. You call people?

6 A. Yes.

7 I need to clarify.

8 Q. Please do.

9 A. I don't actually physically drive to a
10 facility and go through their files. I will either
11 call them and say I'm looking for X, Y, Z; do you have
12 that, or I will email them that.

13 Q. Okay. Have you ever -- have you ever -- have
14 you ever called someone and said, I need to look at
15 your hard copy file regarding topic X or whatever, or
16 asked them whether they have hard copy files regarding
17 a certain matter?

18 A. No, I don't believe I used that term ever:
19 "hard copy file."

20 Q. Have you ever asked -- when you have been
21 doing the work of trying to find responsive records,
22 have you ever called anybody and said, there's two
23 ways you're supposed to store public records, where
24 did you store the public records that might be
25 responsive to this request?

1 A. No.

2 Q. So you just ask them generally, do you have
3 records about X?

4 A. Yes.

5 Q. You don't ever say, "I want to see your hard
6 copy public records file"?

7 A. Correct.

8 Q. And you don't ever say, "I want to see your
9 email" -- I'm sorry -- "I want to see your electronic
10 document management system public records file"?

11 A. I do not.

12 Q. So you don't really follow this policy -- you
13 follow this policy yourself, but you don't really
14 utilize this policy when you're searching for -- when
15 you're going out there trying to collect potentially
16 responsive records, right?

17 A. I don't know how they store their
18 information. So I don't care where they store it,
19 just as long as they give it to me.

20 Q. But you don't ever ask them for their hard
21 copy file about a topic or -- you don't ever
22 specifically say, "I would like your hard copy file on
23 this topic"; you don't ever specifically say, "If you
24 don't keep a hard copy file, I'd like to see your
25 electronic document management system file on this

1 topic"; instead, you just say, "I want documents about
2 Trustee Child," for example, and then you look at what
3 give you, right?

4 A. I will ask them, "Do you have information
5 responsive, readily available, responsive to X, Y, Z?"

6 Q. What does "readily available" mean?

7 A. If it's readily available, it's something
8 that they can produce. They don't have to create
9 something; they have it already, and they can turn it
10 over.

11 Q. How do they know what you mean when you say
12 "readily available"? If you asked me, for example,
13 for my readily available emails with Adam, Mr. Honey,
14 I might say, "I don't have any readily available
15 emails; I'd have to search, there are so many, we've
16 had so many email communications about this case," and
17 I email you back and say, "I have no readily available
18 emails," how do you communicate to people what
19 "readily available" means?

20 A. If they're confused, they'll ask me.

21 Q. So you rely on them asking you?

22 A. Yes.

23 Q. So when you go out and collect documents, you
24 just say, give me your readily available documents on
25 whatever the topic is in the public records request

1 that you're working on, right?

2 A. I'll ask them if they have it. I don't
3 actually say give me these, because I don't know if
4 they have it. I'll ask them if they have documents
5 responsive.

6 Q. And you don't give guidance about how to
7 search for these documents; you just ask for documents
8 on a specific topic or for a specific document, right?

9 A. That is correct.

10 MS. McLEITCHIE: Take another short break, and
11 I might be done.

12 (Recess taken.)

13 BY MS. McLEITCHIE:

14 Q. Earlier, when we were talking about the
15 process in this case for producing documents, you
16 mentioned that you don't search for responsive
17 documents and redact them at the same time; that you
18 first figure out what's responsive, give those to
19 legal; legal highlights them and sends them back to
20 you. Is that correct?

21 A. In this case, that's correct.

22 Q. Is it different in other cases?

23 A. Yes.

24 Q. Sometimes you do review and redact at the
25 same time?

1 A. (No response.)

2 Q. What's different in other cases?

3 A. In other cases, I may do it all before it
4 goes to legal for a final review.

5 Q. Understood. But in this case, you reviewed
6 the documents, you gave the -- you did not make any
7 redactions; you gave them to legal. They highlighted
8 things and they sent them back to you. Correct?

9 A. Correct.

10 Q. And were the items they highlighted the
11 things to be redacted?

12 A. Correct.

13 Q. How would you redact?

14 A. I have a program that I redact --

15 Q. Is it --

16 A. -- online.

17 Q. Is it Adobe?

18 A. It is.

19 Q. Okay. It's the fancy Adobe where you can do
20 the redacting on there?

21 A. I don't know if it's fancy, but yes.

22 Q. But you can do the redacting on there?

23 A. Yes.

24 Q. There's Adobe Reader and then there's
25 Acrobat.

1 A. Yes.

2 Q. Okay, so then you're actually redacting in
3 the electronic version?

4 A. Correct.

5 Q. And then in this case, did you give them to
6 legal for production?

7 A. The scanned copies.

8 Q. After you made the -- so you review the
9 documents; you send them to legal. Legal highlights
10 them; they send them back to you. You make the
11 redactions electronically; you send them back to
12 legal. Is that correct?

13 A. Correct.

14 Q. And that was the last you had anything to do
15 with it?

16 A. Correct.

17 Q. In the report that you provide to your
18 supervisor periodically regarding the status of open
19 requests that we were talking about earlier, you
20 mentioned that you also copy legal. Is that correct?

21 A. Correct.

22 Q. Do those reports discuss litigation?

23 A. No.

24 Q. Are you discussing legal matters in those
25 reports?

1 A. No.

2 Q. It's just the synopsis of the request and the
3 status?

4 A. Yes.

5 Q. And the date of the -- and the date the
6 response is due?

7 A. Correct.

8 MS. McLEITCHIE: That's all I have. Unless
9 Mr. Honey has anything further.

10 MR. HONEY: No, nothing.

11 MS. McLEITCHIE: I'm sorry; I do have one more
12 question.

13 Q. Did you speak to Mr. Honey during the break?

14 A. No.

15 Q. Did you have anything you wanted to add or
16 correct based on what we talked about today?

17 A. I don't believe so.

18 Q. Do you want the opportunity to review the
19 transcript?

20 MR. HONEY: Yes.

21 BY MS. McLEITCHIE:

22 Q. So you'll have the opportunity to read the
23 transcript, and if you think something is wrong,
24 you'll be able to correct it, or you'll be able to
25 approve the transcript.

1 A. Okay.

2 Q. Obviously this isn't a case where we're going
3 to have a trial, but obviously -- you're free to make
4 any corrections you see fit; I can certainly make
5 arguments based on the nature of corrections you might
6 make.

7 A. Okay.

8 Q. Any questions before we finish?

9 A. I don't think so.

10 MS. McLEITCH: Okay. Then this deposition
11 is concluded.

12 (Thereupon, the taking of the
13 deposition was concluded
14 at 2:50 p.m.)

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* * * * *

I, CYNTHIA SMITH-JOHNSON, deponent herein, do
hereby certify and declare the within and foregoing
transcription to be my deposition in said action; that
I have read, corrected, and do hereby affix my
signature to said deposition this ____ day of
_____, 2017.

CYNTHIA SMITH-JOHNSON

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REPORTER'S DECLARATION

I, Michelle C. Johnson, CCR 771, declare as follows:

That I reported the taking of the deposition of the witness, CYNTHIA SMITH-JOHNSON, commencing on Thursday, August 17, 2017 at 1:03 p.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I simultaneously transcribed my said shorthand notes into typewriting via computer-aided transcription, and that the typewritten transcript of said deposition is a complete, true, and accurate transcription of said shorthand notes taken down at said time. That prior to completion of the proceedings, review of the transcript pursuant to NRCP 30(e) was requested.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated: August 31, 2017.



Michelle C. Johnson, RPR-CRR, CCR No. 771

EXHIBIT 5

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,
Plaintiff,

vs.

CLARK COUNTY SCHOOL DISTRICT,
Defendants.

-----/

Case No.:
A-17-750151-W
Dept. XVI

DEPOSITION OF DANIEL ROBERT WRAY
Thursday, August 10, 2017
Las Vegas, Nevada

Reported by:
Michelle C. Johnson, RPR-CRR
NV CCR 771, CA CSR 5962
Job No. 2674603
Pages 1 - 95

1 BE IT REMEMBERED that, pursuant to the laws
2 governing the taking and use of depositions, and on
3 Thursday, August 10, 2017, commencing at 10:01 a.m.
4 thereof, at Veritext Legal Solutions, 2250 South
5 Rancho Drive, Suite 195, Las Vegas, Nevada, before me,
6 MICHELLE C. JOHNSON, a Certified Court Reporter in the
7 States of Nevada and California, personally appeared
8 DANIEL ROBERT WRAY, called as a witness by the
9 Petitioner.

10 APPEARANCES:

11 For the Petitioner:

12 MARGARET A. McLETCHE
13 ALINA M. SHELL
14 Attorneys at Law
15 McLETCHE SHELL LLC
16 701 Bridger Avenue
17 Suite 520
18 Las Vegas, Nevada 89101
19 702/728-5300
20 maggie@nvlitigation.com
21 alina@nvlitigation.com

22 For the Respondent:

23 ADAM D. HONEY
24 Assistant General Counsel
25 CLARK COUNTY SCHOOL DISTRICT
5100 West Sahara Avenue
Las Vegas, Nevada 89146
702/799-5373
ahoney@interact.ccsd.net

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WITNESS

DANIEL ROBERT WRAY

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EXHIBITS PREVIOUSLY MARKED

NUMBER PAGE REFERENCED

Petitioner's

Exhibit 18 "Certification of Dan Wray" 36
(LVRJ025 - 41)

Exhibit 19 2/10/17 McLetchie letter to Honey 39

EXHIBITS

NUMBER PAGE MARKED

Petitioner's

Exhibit 23 Deposition subpoena and notice 6

Exhibit 24 1/23/09 "Recorder's Transcript of 72
of Hearing Re: Evidentiary Hearing"
in Karen Gray vs. Clark County School
District

Exhibit 25 CCSD regulation re. Records 85
Retention Schedule

1 DANIEL ROBERT WRAY,
2 being first duly sworn to tell the truth, the whole
3 truth, and nothing but the truth, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MS. McLETCHE:

7 Q. Mr. Wray, I'm Maggie McLetchie, and I
8 represent the Las Vegas Review-Journal in the matter
9 concerning public records and the Clark County School
10 District.

11 First and foremost, can you state your full
12 name and spell it for the record.

13 A. Daniel Robert Wray. It's Daniel,
14 D-a-n-i-e-l, Robert, R-o-b-e-r-t, Wray, W-r-a-y.

15 Q. And are you represented for the purposes of
16 this deposition by Mr. Honey?

17 A. Yes.

18 Q. When did he agree that he would represent
19 you --

20 A. Well, as --

21 Q. -- in regards to this deposition?

22 A. As an employee of the district, he's here
23 representing my actions for the district in this case.

24 Q. Okay. So he's here to represent you in this
25 deposition; is that correct?

1 A. As an official of the district, yes.

2 Q. I think my question was when did you agree he
3 would represent you for purposes of this deposition.

4 A. When they notified me I had been called for
5 the deposition.

6 Q. Do you remember when that was?

7 A. Couple of weeks ago, I guess.

8 Q. Okay. I have here with me -- do you have
9 your stuff from yesterday?

10 MR. HONEY: Yes.

11 MS. McLEITCHIE: So we're just going to
12 continue the exhibits. And just as a matter of
13 formality, here are -- and you probably have these,
14 Mr. Honey, but there you go.

15 Q. That's a deposition notice and a deposition
16 subpoena for this deposition.

17 Have you seen these documents before?

18 A. These specific documents, no.

19 Q. Your counsel didn't provide you copies of
20 these documents?

21 A. Not in this format, at least.

22 Q. But you understand you have been subpoenaed
23 here --

24 A. Yes.

25 Q. -- for the deposition?

1 A. Yes.

2 Q. Let's give that to the court reporter, and
3 we'll mark that as -- what's the next exhibit number
4 in the sequence?

5 THE REPORTER: 23.

6 MR. HONEY: Ms. Court Reporter, what was
7 Exhibit 22?

8 THE REPORTER: It's a December 9 email.

9 MR. HONEY: Okay.

10 MS. McLEITCHIE: We did not -- at the end of
11 the deposition, we did fail to make the policy an
12 exhibit.

13 (Petitioner's Exhibit 23 was marked for
14 identification.)

15 BY MS. McLEITCHIE:

16 Q. Let's go over some ground rules for
17 depositions.

18 Have you ever had your deposition taken
19 before?

20 A. Yes.

21 Q. How many times?

22 A. At least once, it may have been twice.

23 Q. At least once. What case was that?

24 A. It was a case in regards to the Clark County
25 School District and an employee matter.

1 Q. So it was an employment discrimination case?

2 A. Something like that.

3 Q. And what was the other case you think you
4 might have been deposed?

5 A. I've done affidavits. I don't remember if I
6 have been deposed in another case.

7 Q. And have you testified in court before?

8 A. I have testified in the courthouse.

9 Q. How many times?

10 A. Once.

11 Q. Was that in the Karen Gray matter?

12 A. It was.

13 Q. So you understand your testimony today is
14 just like it was in that court proceeding or it would
15 be in an affidavit, that you are testifying under the
16 penalty of perjury, correct?

17 A. Yes.

18 Q. And there is nothing, no medication you are
19 on or any other reason why you can't give your best
20 testimony today?

21 A. No.

22 Q. So just to make it easier for the court
23 reporter, sometimes I talk quickly, let's make sure
24 that I finish my questions, and if Mr. Honey lodges an
25 objection, that he is able to lodge his objection, and

1 then that you are able to then state your answer, just
2 so the court reporter can create a clean record.

3 Okay?

4 A. I will try to remember.

5 Q. And the other thing too is that depositions,
6 we're going to be talking today so it might seem like
7 a conversation, but so the record is clear too, the
8 court reporter can't take down nonverbal signals and
9 even uh-huhs are hard on her, so if you're answering a
10 yes-or-no question, for example, if you could say
11 either yes or no.

12 Does that sound fair?

13 A. Yes.

14 Q. And it's a short deposition today, it will
15 only be about two hours. But I may take a break at
16 some point, and you're welcome to take a break at any
17 point, the only -- just let us know. The only thing I
18 ask is that you can't take a break while a question is
19 pending. Okay?

20 A. Yes.

21 Q. Before we get started, do you have any
22 questions about the procedure today?

23 A. No.

24 Q. What did you do to prepare yourself for this
25 deposition?

1 A. I reviewed the emails that I sent to
2 Mr. Honey, to Ms. Pochert Hanna of CCSD, and to
3 Cindy Smith-Johnson.

4 Q. I'm sorry; the second person. You said
5 emails to Mr. Honey, emails to -- who was the
6 second --

7 A. Jeanne-Marie Pochert Hanna, also one of the
8 assistant general counsels for the district.

9 Q. And could you spell that? Because I can't.

10 A. Jeanne-Marie is J-e-a-n-n-e hyphen M-a-r-i-e,
11 next name is Pochert, P-o-c-h-e-r-t, and Hanna,
12 H-a-n-n-a.

13 Q. Thank you. The court reporter will
14 appreciate that.

15 And the third, I think you said there was a
16 third group of emails, and these -- emails to
17 Mr. Honey, emails to the other person in the general
18 counsel's office, who was the third group?

19 A. Cynthia Smith-Johnson.

20 Q. Did you ever have any communications about
21 any public records request from the Review-Journal
22 regarding Trustee Child with anybody else other than
23 those three individuals that you just mentioned?

24 A. Carlos McDade.

25 Q. Did you have any emails with him?

1 A. He was cc'd on emails to those other
2 individuals.

3 Q. Okay. Was there anything else that you
4 looked at or did to prepare for this deposition?

5 A. No.

6 Q. Do you have any documents here with you
7 today?

8 A. No.

9 Q. Did you meet with Mr. Honey?

10 A. Yes.

11 Q. How many times?

12 A. Once.

13 Q. And when was that?

14 A. Monday? This last Monday.

15 Q. Did you speak with anyone besides Mr. Honey
16 about this deposition?

17 A. Other than letting my secretary know where I
18 would be, no.

19 Q. Did you speak to Ms. Smith-Johnson?

20 A. No.

21 Q. Did you speak to Mr. McDade?

22 A. No.

23 Q. How long have you been at Clark County School
24 District?

25 A. 20 years.

1 Q. Have you always worked in information
2 technology at Clark County School District?

3 A. Prior to my employment with the Clark County
4 School District, I worked with the Nevada System of
5 Higher Education, also in information technology.

6 Q. What was your job at NSHE?

7 A. A variety of jobs. I was a technical
8 consultant, manager of network analysis. Those were
9 my two titles.

10 Q. Can you briefly explain what each of those
11 jobs does?

12 A. The --

13 Q. To a nontech person.

14 A. At the time, a technical consultant assisted
15 university staff, sometimes students, with the use of
16 software --

17 Q. Okay.

18 A. -- systems; occasionally assisted them with
19 some of their research using statistical programs --

20 Q. Okay.

21 A. -- things like that.

22 As the manager of network analysis, operated
23 and maintained the computer networks within the
24 university's systems, connections between Las Vegas
25 and Reno, as well as the Internet, and maintaining

1 those operations.

2 Q. So that would have included -- that would
3 have included storage and retention of electronic
4 data?

5 A. Not most of -- in the sense of it being on a
6 file server, yes. But that was not the main concern
7 of the job.

8 Q. But you were responsible for the network for
9 the Nevada System of Higher Education?

10 A. For some of the connections in the network.

11 Q. So -- I'm sorry, go ahead.

12 A. The phone lines and the high speed
13 connections.

14 Q. Okay. So not for managing the network and
15 ensuring that records -- ensuring how documents were
16 retained or anything like that. It was more about
17 connections between UNR and UNLV; am I understanding
18 it correctly?

19 A. Correct.

20 Q. So then about 20 years ago, you started
21 working for Clark County School District?

22 A. Uh-huh.

23 Q. Before you worked at Nevada System for Higher
24 Education, where did you work?

25 A. Summer jobs pumping gas, et cetera.

1 Q. So what is your degree in?

2 A. Statistics and computer science.

3 Q. And what's the highest degree that you
4 attained?

5 A. Bachelor's degrees.

6 Q. When did you get your bachelor's degree?

7 A. 1988.

8 Q. Since you got your bachelor's degree, have
9 you done any kind of education in information
10 technology, anything pertaining to your duties at
11 CCSD?

12 A. Fairly regular learning, no specific
13 certifications or degrees, no.

14 Q. When you say "fairly regular learning," what
15 does that mean?

16 A. Research, data on trade magazines, going to
17 conferences, et cetera.

18 Q. But no formal --

19 A. No formal.

20 Q. Okay. Online or in person?

21 A. I have not taken any online classes.

22 Q. When you said that you have attended
23 conferences, what kind of conferences are those?

24 A. I've attended Cisco networkers in the past; I
25 have attended various user group meetings; I have

1 attended the Council of Great City Schools Chief
2 Information Officers seminars that occur annually, et
3 cetera.

4 Q. So do any of those seminars pertain to
5 storing electronic data?

6 A. They typically have a session or two on that.
7 I may or may not have attended them; I do not recall.

8 Q. Okay. So you don't recall whether you have
9 attended anything on storage of electronic data?

10 A. No.

11 Q. Do you have any specific training with regard
12 to working on public records requests?

13 A. Specifically with regard to public records
14 requests, no, other than searching our systems in
15 response to a public records request and what our
16 system can -- how to search our system.

17 Q. I was involved in the Gray case too; I know
18 that you have been working on those matters for quite
19 some time.

20 I was asking about any sort of formal
21 training on it.

22 A. No.

23 Q. I'm not a computer expert, so please be
24 patient with my questions about how networks work and
25 that kind of thing. And I'm particularly not -- I

1 don't quite understand how an organization like CCSD
2 stores all their electronic information. That's way
3 beyond my small firm, for example, with its little
4 server. But I want to understand how it works so I
5 can understand what went on in this case.

6 So CCSD has a bunch of employees that use
7 computers, right?

8 A. Yes.

9 Q. How many employees does it have?

10 A. Clark County School District has roughly
11 40,000 employees.

12 Q. How many are issued computers or electronic
13 devices of some sort?

14 A. There are computers issued to desks, not
15 necessarily to individuals. Some individuals may have
16 a computer or a laptop issued to them by their
17 department, et cetera, but that is not, you know, upon
18 your employment, here's your computer.

19 Q. So when you say "desks," and you refer to
20 upon your employment, here's a computer, you're
21 talking about a desktop -- are you talking about a
22 desktop computer?

23 A. It may be a desktop and it may be a laptop.

24 Q. Okay. But you're talking about -- a
25 department may additionally assign somebody a laptop,

1 but what you're talking about, the computers assigned
2 to desks, you're talking about a kind of fixed
3 computer that always goes with a particular position,
4 am I understanding that correctly?

5 A. It's on the -- it's at the person's work
6 location. For example, a secretary comes in and she
7 has a desk and there's a computer for her use. That's
8 what I'm referring to.

9 A bus driver does not have a computer
10 assigned to them for their regular use. There may be
11 one in the central bus drivers' lounge that they
12 share.

13 Q. Okay. Thank you for that clarification.

14 For that bus driver that might use a shared
15 terminal, are they assigned any -- would the bus
16 driver be assigned an email address that they could
17 then access at this shared terminal?

18 A. Yes.

19 Q. So does every employee at CCSD get an email
20 address?

21 A. Yes.

22 Q. And so I'm getting ahead of myself a little
23 bit. But let's say a CCSD bus driver goes to this
24 terminal and logs on to their email and they send an
25 email. Where is that -- where does that email --

1 where is that email stored?

2 A. They're -- the district's email system is
3 operated off of a central server, so all of the emails
4 are stored on that central server.

5 Q. Is that also true for somebody that has a
6 desktop or laptop assigned to their work location?

7 A. Yes.

8 Q. And you mentioned sometimes that a department
9 might issue somebody a laptop.

10 A. Uh-huh.

11 Q. Would that be in addition to the work
12 location computers that we're talking about?

13 A. The same situation -- all of the email is
14 centrally stored on the server.

15 Q. I'm going back a step; I'm not asking about
16 emails anymore. I'm trying to understand who is
17 assigned computers, and it sounds like -- and what
18 computers are assigned to people.

19 It sounds like there is a bunch of machines
20 that are issued to work locations. Right?

21 A. Yes.

22 Q. And then you also mentioned that a department
23 might issue a machine to somebody?

24 A. Yes.

25 Q. So what's the difference between those two

1 kinds of machines that are issued out?

2 A. An employee typically would not be assigned a
3 desktop to carry with them; it would typically be a
4 laptop.

5 Q. Okay. So in addition to a desktop, somebody
6 might be assigned a laptop?

7 A. Correct.

8 Q. So when you talk about the
9 departmental-assigned machines, those are generally
10 laptops?

11 A. Yes.

12 Q. Okay.

13 A. If assigned to an individual, it would be a
14 laptop.

15 Q. Does the department issue any other computers
16 besides laptops? Or are they -- the other machines
17 that are issued are the ones that are tied to work
18 locations that you mentioned?

19 A. There could be tablets.

20 Q. Okay. So we've got tablets, laptops. What
21 else?

22 A. That's pretty much it.

23 Q. What about phones?

24 A. Phones, if there are phones being assigned, I
25 don't have specific knowledge of that.

1 Q. Are you aware of any policy about
2 reimbursement for cell phone usage?

3 A. I believe there is. For some administrative
4 employees there is a policy that they can be
5 reimbursed.

6 Q. But no part of your duties involves --
7 involves managing cell phone lines or anything like
8 that?

9 A. The E-Rate subsidies for voice communications
10 that have existed in the past as part of the federal
11 E-Rate Program, one of my departments operates that
12 E-Rate Program.

13 Q. I am not familiar with what you are talking
14 about. Can you explain that to me?

15 A. On the bottom of your phone bill, you will
16 see a small amount that says Federal Subscriber
17 Charge, Universal Access Charge.

18 Q. Okay.

19 A. That is also known as the federal E-Rate
20 fund.

21 Q. Okay.

22 A. It's a multibillion dollar fund that the
23 federal government uses to subsidize libraries and
24 schools for connectivity, and also for folks in
25 poverty for their phone lines.

1 Q. Okay. So it's a charge that everybody gets
2 on their cell phone bills?

3 A. All phones.

4 Q. All phones.

5 A. Correct.

6 Q. So do you deal with the E-Rate subsidy for
7 any cell phones?

8 A. There were E-Rate subsidies. Cell phone
9 services were allowed to be -- receive a subsidy or a
10 rebate. That is being phased out by the federal
11 government.

12 Q. I understand what you're talking about now
13 with regard to what E-Rate subsidies are. I'm getting
14 a little confused about whether or not CCSD issues
15 cell phones.

16 A. I --

17 Q. I thought you testified it doesn't -- let me
18 finish.

19 If it doesn't issue cell phones, I'm confused
20 about why you would deal with E-Rate subsidies for
21 cell phones.

22 A. Departments may issue them. I am not
23 personally involved in the issuance of cell phones to
24 employees.

25 Q. Understood. Thank you.

1 So if a department issues a cell phone, who
2 is responsible -- what's your current title at Clark
3 County School District?

4 A. Chief Technology Officer.

5 Q. Describe what that -- describe what that is
6 to me, what your job is.

7 A. Chief Technology Officer supervises and
8 directs the work in a number of departments within the
9 technology division and serves as a resource for
10 information to other departments when they are seeking
11 advice regarding technology.

12 Q. Do other departments -- do other departments
13 have separate, independent information technology
14 staff?

15 A. Yes.

16 Q. So those staff may be involved in matters
17 such as managing cell phone lines for people that may
18 be assigned cell phones and managing the laptops that
19 are issued, am I understanding that correctly?

20 A. Yes.

21 Q. And so you don't personally manage those cell
22 phones or laptops that are managed by department IT
23 staff?

24 A. Correct.

25 Q. But you assist them and you provide them

1 information?

2 A. (Nods head.)

3 Q. And you are aware -- you are generally aware
4 of their practices with regards to issuing cell phones
5 and laptops, correct?

6 A. Yes.

7 Q. So if I understand it correctly, you are
8 responsible for managing the email system, InterAct,
9 right?

10 A. Correct.

11 Q. And you are responsible for managing,
12 maintenance of all aspects of the workstation-issued
13 computers we were talking about?

14 A. Yes.

15 Q. And you are responsible for providing advice
16 and guidance for department IT staff that manages any
17 other machines that might be issued by a department?

18 A. Yes.

19 Q. I think I'm getting it. Thank you.

20 Those department IT staff, do they report to
21 you, or do they report within the department?

22 A. Within the department.

23 Q. Got it. So as Chief Technology Officer, how
24 many IT staff report to you?

25 A. There are roughly 200.

1 Q. And when we were talking earlier, I had asked
2 you about how many computers were issued, and then you
3 started explaining to me the difference between
4 work-location computers and issued laptops, issued
5 cell phones. So how many workstation issued machines,
6 desktop machines, are there?

7 A. When you say "issued," keep in mind, as a
8 school district operating schools, the great majority
9 of computers are in schools and they're not issued to
10 an individual, nor are they issued to a student.
11 They're student -- they're used for purposes of
12 student access.

13 Q. Okay. How many machines are there for
14 student access?

15 A. There are roughly 150,000 desktop/laptop
16 computers in the Clark County School District.

17 Q. For student use?

18 A. Total. I don't have the exact total, how
19 many may be for student use or for employees.

20 Q. And how many staff did you say there are at
21 the Clark County School District?

22 A. Roughly 40,000.

23 Q. Of those 40,000, how many of them are
24 issued -- how many of them work on work-location
25 computers that you are responsible for?

1 A. I do not have that information with me.

2 Q. Do you have a rough number?

3 A. I do not.

4 Q. You have no idea how many computers?

5 A. Off the top of my head, I do not.

6 Q. I am entitled -- if you don't know an exact
7 number, just so you know, Mr. Wray, I am entitled to
8 your best recollection. Or if you can give an
9 estimate, I am entitled to an estimate.

10 A. I would have to do more research to get even
11 more of an estimate of that, what that breakdown is.

12 Q. Okay. Would you say at least half of the
13 Clark County School District employees have some sort
14 of computer that they work on as part of their daily
15 duties?

16 A. Yes.

17 Q. And some may be only issued laptops?

18 A. Correct.

19 Q. And all CCSD email communication goes through
20 InterAct, right?

21 A. Correct.

22 Q. Can you explain to me what InterAct is?

23 A. InterAct is an -- our name for the
24 FirstClass -- OpenText FirstClass email system.
25 FirstClass is the name of the product, OpenText is the

1 name of the company that produces the product.

2 Q. Okay. So it's an email system sort of like
3 Outlook?

4 A. Outlook is not an email system; Outlook is a
5 client for an email system. Exchange, Microsoft
6 Exchange, would be the email system.

7 Q. So InterAct -- when you say "email system,"
8 what does that mean?

9 A. Email system would be the set of software
10 programs that allow you to send a message to another
11 user on a system within that system or externally to
12 that system.

13 Q. So InterAct is the system that allows CCSD
14 employees to get an email address and to send and
15 receive emails from that system?

16 A. Correct.

17 Q. Is InterAct also the system that allows them
18 on their desktop or laptop or whatever machines they
19 have, to store emails?

20 A. Emails are not stored on the laptop or
21 desktop. All emails are stored centrally. They are
22 accessed through a client, but the emails are not
23 stored on the computers.

24 Q. When you say they are accessed by a client,
25 do you mean a client like Microsoft Outlook?

1 A. I mean a client similar to Microsoft Outlook,
2 but it is not Microsoft Outlook. It is a client
3 specifically for the FirstClass system that accesses
4 that content on the server.

5 Q. What's it called?

6 A. The FirstClass client.

7 Q. Okay. And you said emails are not stored
8 locally; they are not stored on the machine; they're
9 stored on the server --

10 A. Correct.

11 Q. -- on the CCSD server?

12 Let's make sure I finish my questions, just
13 so the court reporter can keep a record.

14 But they are stored on the server?

15 A. Yes.

16 Q. But a person using InterAct and the
17 FirstClass client can create a folder to move an email
18 into, correct?

19 A. They can create a folder to move on email
20 into, and that also remains on the server.

21 Q. Understood. But they can interact with the
22 way the emails are saved, correct?

23 A. Yes.

24 Q. Not to use a the word "interact" in an
25 incorrect way. But they can create a folder; they can

1 create a subfolder, right?

2 A. Yes.

3 Q. They can delete emails?

4 A. Yes.

5 Q. They can send and receive emails?

6 A. Yes.

7 Q. And so it's -- can they -- can they -- on the
8 work-issued cell phones, for example, can Clark County
9 School District employees email on these work-issued
10 cell phones?

11 A. There is an InterAct -- a FirstClass client
12 that can be used on both Apple IOS devices as well as
13 Android devices.

14 Q. You said "can be." Is it used by any Clark
15 County School District employees --

16 A. Yes.

17 Q. Let me finish my question for the record.

18 Is it used by any Clark County School
19 District employees?

20 A. Yes.

21 Q. Got it. So we have talked about emails.

22 Phones, are you also responsible for managing
23 the phone system for Clark County School District?

24 A. A department under my supervision does.

25 Q. So ultimately, yes?

1 A. Yes.

2 Q. And you're responsible for all the
3 departments under your supervision?

4 A. Yes.

5 Q. Okay. So what's the name of that department?

6 A. Telecommunications.

7 Q. And what phone system does CCSD use?

8 A. Currently, there are two systems in use, one
9 is Alcatel-based system and one is a system using the
10 Asterisk operating system.

11 Q. What's the difference between the two
12 systems, who uses which?

13 A. The older systems that are aging out are the
14 Alcatel systems; the newer systems that are replacing
15 those are the Asterisk systems.

16 Q. So basically it's not departments; you're
17 just in the process of phasing out the system?

18 A. Yes.

19 Q. Yes.

20 And are those Internet-based phones?

21 A. They -- the Alcatels and the Asterisks, in
22 certain functions, may use a protocol known as VOIP,
23 or voice over Internet protocol. That does not mean
24 they use the Internet for communications.

25 Q. Well, then what do they use for

1 communications?

2 A. Our internal wide area network; that is not
3 the Internet.

4 Q. But it's an internal connectivity network?

5 A. It's an internal connectivity network.

6 Q. But obviously they couldn't use this internal
7 connectivity network to call outside the district,
8 right?

9 A. They can. There are gateways that hook to
10 the public telephone system.

11 Q. What do you mean by "public telephone
12 system": landline?

13 A. Yes.

14 Q. Okay. And so when do they -- when do you use
15 the internal system versus over the Internet to --
16 when does Clark County School District use one or the
17 other to make calls?

18 A. Employees are encouraged to use a dialing
19 scheme that allows them to call from extension to
20 extension across the various sites when they're making
21 internal calls, as opposed to dialing (702) 799, you
22 know, 5555.

23 Q. How do you know they're doing that? Can you
24 see records of who's calling who and how calls are
25 being made?

1 A. I personally do not see those records. I
2 believe there are records for those calls that are
3 being made using the (702) 799 type. As for --

4 Q. I'm sorry. When you say "(702) 799 type,"
5 what does that mean?

6 A. The regular telephone number, dialing a phone
7 number as you would do when you were dialing your home
8 phone.

9 Q. Okay.

10 A. When they are using the extension dialing, I
11 do not know if there are records of those calls, if
12 those are logged per se.

13 Q. Okay, so if Mr. Honey here were to call my
14 office, there would be a record of that call --
15 correct -- because it's an external number?

16 A. Yes.

17 Q. But you don't know whether or not, if
18 Mr. Honey called Mr. McDade, if there was a record of
19 that?

20 A. Correct.

21 Q. Okay. So we have talked about phones. We
22 have talked about emails. What about other kinds of
23 electronic records, such as word processing files,
24 spreadsheets, PowerPoint presentations, things like
25 that, where are those stored?

1 A. Those are stored either on the user's hard
2 disc incorporated into their own computer that they
3 are using, or the recommended would be to place them
4 on the department- or division-level server.

5 Q. When you say "recommended," is there a policy
6 requiring them to do that? By "them," I mean
7 employees.

8 A. Employees are encouraged to do so for backup
9 purposes.

10 Q. How are they encouraged to do so?

11 A. By their local department administrator.

12 Q. So there is no CCSD-wide guidance about this?

13 A. Not that I am aware of.

14 Q. And why are they encouraged to do this?

15 A. For computer backup purposes in case of
16 viruses, in case of a deletion -- accidental
17 deletion -- of a file so that the file can be
18 restored.

19 Q. So the best practice is -- could they save
20 it -- instead of just doing a backup later and saving
21 it on the server, when you're working on a computer
22 issued to you at CCSD, can you automatically default
23 to save on the server?

24 A. Yes.

25 Q. Could the machines be set up to require that?

1 A. They are set up as the default to save files
2 to the server.

3 Q. So then why do they need to be encouraged to
4 do that, if that's the default; do some employees go
5 ahead and overwrite that default?

6 A. Employees can choose to where to save the
7 file. Sometimes, depending on the size of the file,
8 there may not be sufficient server space to save a
9 very large file. They may choose to put it on onto
10 the local drive instead.

11 Q. When you say there isn't sufficient server
12 space, isn't CCSD's server huge?

13 A. There are many servers throughout the
14 district, not all servers have exceedingly large
15 amounts of disc space.

16 Q. You said "there are many servers." Is there
17 any central server that all of these servers back up
18 to or anything like that?

19 A. There are backups for servers. Some of them
20 are operated by the technology division and my
21 networking services department, and some may be
22 operated by local departments that handle the backup
23 themselves.

24 Q. Wouldn't it be better if all the IT people
25 worked directly for you rather than some working for

1 departments?

2 A. Not necessarily.

3 Q. Do you think it would be better?

4 A. I have had thoughts both ways in my career.

5 Q. Why would it be better to have them be
6 central?

7 A. For standardization, control.

8 Q. For ensuring records are backed up properly?

9 A. A number of reasons.

10 Q. Is that one of them?

11 A. That would not be an overriding one in my
12 mind, no.

13 Q. You don't think that if all the IT staff
14 reported to you and you could have clear requirements
15 about where people save documents and how they back
16 them up, that there would be more systematic retention
17 of records?

18 A. Not to my experience.

19 Q. Why?

20 A. Employees tend to do what they want to do, if
21 they are able to do it. A computer typically has the
22 ability to access a number of drives that are
23 accessible, and you cannot prevent someone from using
24 the drive that's on the computer. So human nature.

25 Q. Okay, understood.

1 With regard to -- you did mention that
2 InterAct emails are saved on the central server,
3 correct?

4 A. Yes.

5 Q. Let's make sure I finish for the record.

6 So, yes, they are?

7 A. Yes, they are.

8 Q. What else is saved on the central server?

9 A. When you say "central server," there are many
10 central servers, depending on purpose. The InterAct
11 email server is different.

12 Q. So the InterAct central server is a central
13 server?

14 A. Is a central server used for InterAct,
15 period.

16 Q. Okay, I got it.

17 So there are central servers and then there
18 are many other servers that are maybe department
19 servers. Am I understanding it right?

20 A. In a simplistic way of looking at it, yes.

21 Q. Is there anything wrong with what I just
22 said?

23 A. No.

24 Q. Can you access all of the servers or only
25 the -- what we're calling central servers?

1 A. I can only access the central servers.

2 Q. So if there is a department-specific server,
3 for example, you can't access that server?

4 A. That is correct.

5 Q. You would have to contact that department's
6 IT staff --

7 A. Yes.

8 Q. -- if you wanted to search it?

9 Okay. So let's talk about this case a little
10 bit and see if we can -- I can kind of put together
11 these pieces.

12 When did you first become aware that Las
13 Vegas Review-Journal had made a public records request
14 for documents concerning Trustee Child?

15 A. I believe there was a request sent to me by
16 Jeanne-Marie Pochert Hanna in December of 2016.

17 Q. Do you remember when in December?

18 A. I believe it was the 7th or 9th. I do not
19 recall the specific date.

20 Q. And were you instructed to search for
21 documents?

22 A. I was instructed to search certain users'
23 InterAct accounts for certain key words.

24 Q. So did you see the actual public records
25 request at issue?

1 A. I was emailed some instructions to follow.

2 Q. I don't think you answered my question. Did
3 you --

4 A. I did not see a legal document like these.

5 Q. Did you see an email from a reporter saying,
6 Hey, I'm looking for the following? Dear Cynthia,
7 will you give me these documents?

8 A. Occasionally when I see those public record
9 requests, those are attached at the bottom, sometimes
10 they are not. I do not recall in this instance.

11 Q. Okay. So you don't recall whether you saw
12 it. What you do recall is that you were just
13 instructed to search certain users' InterAct emails
14 for certain search terms. Is that correct?

15 A. Correct.

16 (Petitioner's Exhibit 18, previously marked
17 for identification, was referenced.)

18 BY MS. McLEITCHIE:

19 Q. Okay. At some point in the case, you created
20 a -- this is Exhibit 18. If we go to the top of it,
21 does this appear to be your certification?

22 A. It is.

23 Q. Is that your signature?

24 A. Yes.

25 Q. So you prepared this certification and

1 executed it for this litigation, correct?

2 A. Yes.

3 Q. So on the attached "Exhibit A," it has two
4 searches that were conducted, looks like two searches
5 conducted in December.

6 A. Correct.

7 Q. And those were the only searches that you
8 were asked to conduct?

9 A. Correct.

10 Q. And you were not -- you were not asked to
11 freeze any records, ensure that other records weren't
12 deleted?

13 A. No.

14 Q. And these are the only -- this is the only
15 thing you did for the public records request from the
16 R-J back in December for the public records request --
17 when I say "public records request," by the way, will
18 you understand that I mean public records request for
19 Trustee Child records?

20 A. These are the terms and the people whose
21 mailboxes I was asked to search.

22 Q. So these are the only -- here's my question.
23 With regard to the public records request from the R-J
24 in December for records concerning Trustee Child, this
25 is the only thing that the IT department did; it

1 searched these two inboxes for these search terms,
2 correct?

3 A. That's -- these are the things that I was
4 asked to do, correct.

5 Q. These are not just the only things that you
6 were asked to do, these are the only things you did,
7 correct?

8 A. Correct.

9 Q. You didn't freeze any other records?

10 A. No.

11 Q. And this is all you did because you were
12 following instructions from the general counsel's
13 office?

14 A. I was asked to search these two individuals
15 for these search terms; that is what I did. Those
16 were the only instructions I was given.

17 Q. So you followed -- so in doing searches for
18 responsive records to the Las Vegas Review-Journal
19 public records request concerning Trustee Child, this
20 was the searches, on "Exhibit A," LVRJ027 on December
21 9th, these are the only searches you did because these
22 are the only searches the general counsel's office
23 asked you to do, correct?

24 A. Correct.

25 Q. And you understood your responsibility is

1 just to follow the instructions from the general
2 counsel's office?

3 A. Correct.

4 (Petitioner's Exhibit 19, previously marked
5 for identification, was referenced.)

6 BY MS. McLEITCHIE:

7 Q. Okay. So do you recall seeing a letter from
8 myself on behalf of the Las Vegas Review-Journal?
9 It's Exhibit 19 right there.

10 A. I do not recall seeing this letter, no.

11 Q. Okay. So you weren't aware that I asked for
12 electronic records besides emails?

13 A. Not that I was made aware of, no.

14 Q. And the only records you have ever searched
15 for in this case are emails, correct?

16 A. Correct.

17 Q. Okay. When you search in InterAct -- when
18 you search an InterAct email account, I'm assuming
19 that you are accessing the central server that's
20 utilized for storing InterAct email accounts.
21 Correct?

22 A. Correct.

23 Q. We talked about other servers, but no other
24 server is used to store email, correct?

25 A. Correct.

1 Q. So that makes accessing emails easier?

2 A. Yes.

3 Q. So you will go into the central server. Can
4 you search more than one person's email account at a
5 time?

6 A. No.

7 Q. Could that be set up with InterAct?

8 A. The server searches one user at a time. I
9 can set it up to do sequential searches of named
10 individuals.

11 Q. Okay. So is it like writing a program or is
12 it a query form or how does it work in InterAct
13 when -- let's say you are essentially instructing
14 InterAct to search various email accounts one after
15 the other.

16 A. It entails creating an alias of the user's
17 mailbox into a new folder and then telling it to
18 search that folder. This is a fairly time-consuming
19 process.

20 Q. Why is it time-consuming?

21 A. The mailboxes all have the same name,
22 "Mailbox." Hence when you make the alias, it's also
23 called "Mailbox," and then you have to verify that
24 you've got the right one. And then as you get large
25 lists of Mailbox, all named Mailbox, 10, 20, 30, 50,

1 100, 300 all named Mailbox, it is -- it can be
2 time-consuming to ensure that you haven't duplicated
3 one or left one off of your list as you were trying to
4 maintain --

5 Q. Got it.

6 A. -- your tracking on that.

7 Q. Would there be a way to fix that on the
8 InterAct?

9 A. No.

10 Q. Have you talked to InterAct about this?

11 A. Yes.

12 Q. And are they working on this?

13 A. No.

14 Q. Are you looking at getting a different email
15 system?

16 A. Yes.

17 Q. In part to solve this problem?

18 A. Yes.

19 Q. How likely do you think it is that you're
20 going to get a different email system?

21 A. There are a number of considerations: cost,
22 ease of use. I believe that there is a likelihood
23 that the Clark County School District may eventually
24 move off of InterAct as its email system.

25 Q. And in part that's the case because it would

1 help you review records for litigation, public records
2 requests, other matters?

3 A. I believe that is a side benefit. I believe
4 the primary driving force is schools working with
5 students on email and things, and the schools are more
6 interested in using those consumer-based email
7 systems: Google or Office 365, et cetera.

8 Q. Okay. So when you search these -- when you
9 run the program, you don't have to search -- you can
10 ask it to search for all of these search terms at
11 once, correct?

12 A. One search term at a time.

13 Q. So you have to run -- so let's turn to this
14 page together, LVRJ027.

15 A. Yes.

16 Q. And let's just walk this through for me. So
17 you ran a search -- this means you ran a search in
18 Mike Barton's email for the term "Trustee Child"?

19 A. Yes.

20 Q. And then for "Kevin Child"?

21 A. Yes.

22 Q. And then "guidelines for trustee visit"?

23 A. Correct.

24 Q. And then "trustee visit"?

25 A. Correct.

1 Q. And then "school visit"?

2 A. Correct.

3 Q. And it appears you did the same thing for Pat
4 Skorkowsky's email.

5 A. Correct.

6 Q. How long did it take you to do these
7 searches?

8 A. The searches take varying times depending how
9 busy the server is. I very often do these searches
10 after hours to avoid putting additional load on the
11 server when users are trying to use the system.

12 Q. Makes perfect sense.

13 A. So depending on the size of the user's
14 mailbox, it can take 15 minutes; it can take 3
15 minutes.

16 I do not recall how long it took to run these
17 specific searches, whether that was 1 minute or 20
18 minutes on each specific term.

19 Q. It certainly wasn't something that you
20 thought was extraordinary use, for example?

21 A. I was --

22 MR. HONEY: Objection: calls for a legal
23 conclusion.

24 BY MS. McLEITCHIE:

25 Q. You can answer.

1 A. I was bothered by the number of search terms,
2 yes.

3 Q. There's one, two, three, four, five search
4 terms.

5 A. It was a very busy time of year.

6 Q. But you said you think it took anywhere from
7 3 minutes to 15 minutes to run the search terms?

8 A. Per term.

9 Q. So if it took 3 minutes, it would take 15
10 minutes?

11 A. If it took 3 minutes. Both of these
12 individual's mailboxes are a little larger than your
13 average teacher.

14 Q. Okay. So let's say it took 10 minutes, it
15 would take 30 minutes to run the search?

16 A. I expected that it would take -- with these
17 number of search terms, it was going to take well over
18 an hour per server -- per individual.

19 Q. Do you recall --

20 A. I do not recall what it took.

21 Q. Okay. So it looks like those are the only
22 things you did on December 9th. And you never -- you
23 don't recall seeing any emails from Ms. Pak-Harvey,
24 the R-J reporter, making the original requests back in
25 December, right?

1 A. No, I don't.

2 MR. HONEY: Objection: asked and answered.

3 BY MS. McLEITCHIE:

4 Q. And you did not see this letter from me?

5 MR. HONEY: Objection: asked and answered.

6 BY MS. McLEITCHIE:

7 Q. Correct?

8 A. No, I do not recall seeing that letter.

9 Q. And you did not -- you haven't -- did you see
10 any court orders in this case regarding additional
11 work the district was required to do to respond to the
12 public records request from the R-J for the records of
13 Trustee Child?

14 A. I did not see any court orders; I read about
15 the case in the R-J.

16 Q. Okay. But these were -- you were reading the
17 news articles; you weren't looking at that to give you
18 direction on what to do with regard to searching for
19 records, right?

20 A. Correct.

21 Q. All the direction you got was from the
22 general counsel's office?

23 A. Yes.

24 Q. You didn't make any independent decisions
25 about who to search, correct?

1 A. That is correct.

2 Q. You didn't make any independent decision
3 about when to search?

4 A. The time of day, yes. After being requested
5 to search, I then made the decision when to conduct
6 the search to minimize impact on our system's users.

7 Q. But you weren't -- you waited to do the
8 searches until you were told to do the searches by
9 general counsel's office?

10 A. Correct.

11 Q. So who searches, when to do the search, and
12 what search terms, all that direction came from the
13 general counsel's office?

14 A. Correct.

15 Q. Other than maybe waiting until after hours to
16 avoid impact on the server and to make it quicker for
17 you probably when doing the searches, you didn't
18 exercise any independent judgment whatsoever with
19 regard to these public record requests?

20 A. No.

21 Q. So just so I'm clear. So on here, I see -- I
22 see "Name." Again, that's the email box that you
23 searched?

24 A. The owner of the mailbox.

25 Q. The owner of the mailbox.

1 And "Terms," that's the terms that you
2 searched for?

3 A. Yes.

4 Q. And "Date," that is the date you ran the
5 searches?

6 A. That is either the date I ran the searches or
7 the date I completed that batch.

8 Q. Got it. So it's the date you completed it?

9 A. It's both. Sometimes it was the same day;
10 other times it may have been the following day.

11 Q. Okay. But which date would you pick to list
12 here?

13 A. The date that I completed it.

14 Q. Okay. So this is the date you completed the
15 search. Sometimes you might have started it the day
16 earlier, but the date listed is the date you completed
17 the search?

18 A. That's right.

19 Q. So you completed a search on February 21st,
20 it looks like.

21 A. A set of searches, yes.

22 Q. Do you recall when -- and then you did a
23 second set of searches on the 22nd of February 2017.

24 A. Correct.

25 Q. So this means no searches whatsoever were

1 done between December and February?

2 A. Correct.

3 Q. And then we have December 21st, December
4 22nd, the next page at the bottom it looks like we get
5 to March 28th.

6 So that was another date you did searches?

7 A. Correct.

8 Q. And on the next page we've got April 5th and
9 May 12th?

10 A. April 5th, correct.

11 Q. And May 12th?

12 A. May 12th is the date that I finished a large
13 number of searches.

14 Q. Keep going, there's a lot of May 12ths,
15 you're are right. We go all the way to the back, and
16 there were a few searches that were conducted on
17 May 15th?

18 A. That is correct.

19 Q. So all of these searches were conducted
20 because you received emails from general counsel's
21 office saying search the following email boxes for the
22 following terms?

23 A. Correct.

24 Q. And when you got -- and these were the only
25 searches that you did for emails in this case for

1 Trustee Child records?

2 A. Correct.

3 Q. And these are the only searches -- you only
4 did email searches?

5 A. Correct.

6 Q. And you haven't done any searches since the
7 date of the filing, correct?

8 A. Right.

9 Q. And once you ran these searches, what did you
10 do with the results?

11 A. I copied the results from the search window
12 into a new folder, and then I placed that folder on
13 the desktop of Cynthia Smith-Johnson, and occasionally
14 the attorney -- one or more of the attorneys.

15 Q. Okay.

16 A. Sometimes it was Jeanne-Marie Pochert Hanna
17 and sometimes it was Adam Honey.

18 Q. Okay. And would it be the same folder that
19 was placed on -- would Cynthia Smith-Johnson have also
20 received a copy of the folders that were provided to
21 general counsel's office?

22 A. Yes.

23 Q. Were they the same folder --

24 A. Just a moment.

25 Q. Okay.

1 A. That would be my instruction would be to
2 place a copy of the results on both Cynthia
3 Smith-Johnson and the attorneys' desktops. That would
4 be my normal action.

5 I do not specifically recall in the December
6 searches if I was asked to provide to Cynthia
7 Smith-Johnson or only to the attorney. I do not
8 recall.

9 Q. Okay. What about in February?

10 A. In February, the Februarys, the March, the
11 April, and the Mays, I was asked to do to Cynthia
12 Smith-Johnson and to attorneys.

13 Q. Okay. And were they duplicate folders that
14 were provided to the attorneys or were they the same
15 folder on a server?

16 A. It is the same folder, and alias to the same
17 folder is placed on each of their --

18 Q. "Alias," like a link, a copy, a way to get
19 into it?

20 A. Yes.

21 Q. Okay. So could -- could Mrs. Johnson have
22 deleted emails in these folders?

23 A. I'm thinking about the permissions, whether
24 or not having an alias, if she would be able to delete
25 them. And I would have to check. I do not know -- I

1 cannot tell you for sure one way or the other right
2 now.

3 Q. Is the same thing true for general counsel's
4 office?

5 A. Yes.

6 Q. So you don't know whether or not they can
7 delete any emails that were put in there?

8 A. Correct.

9 Q. And "in there," I mean that were in these --
10 that they had access through these aliases placed on
11 their desktops.

12 A. Right.

13 Q. So going to the first page, since we have
14 this out, in this certification, if you look at
15 paragraph 3, it states that between December 9th and
16 May 15th, "I have conducted the searches identified on
17 the attached 'Exhibit A'; in total, 1,242 searches of
18 email boxes were conducted on 621 user mailboxes."
19 And it states, "Each user was searched once for 'Kevin
20 Child' and a second time for 'Trustee Child.'"

21 This doesn't appear quite consistent with the
22 December 9th searches, because additional searches
23 were done on the December 9th inbox, correct?

24 A. That would be correct.

25 Q. Okay. So --

1 A. The number would be slightly higher with
2 those two searches because there were additional
3 search terms.

4 Q. Okay. Was there anything else -- I'm just
5 trying to make sure I understand the universe of the
6 searches that you did, and I want to make sure that
7 there is nothing else missing from paragraph 3 and
8 paragraph 4 about what searches you did. Feel free,
9 if you want to take a second.

10 A. Other than the count of individuals, I will
11 assume that there are 621 here, I believe that is
12 correct from looking at the spreadsheet that I
13 previously produced --

14 Q. Okay.

15 A. -- that there are 621.

16 But the number, 1,242, I believe was just 621
17 times two, where, in reality, there would have been a
18 few more based on the additional searches that were
19 performed on December 9th.

20 Q. Other than the issues I pointed out that it
21 may be underinclusive based on the searches done in
22 December, this certification includes each and every
23 search that you did for records about Trustee Child?

24 A. Correct.

25 MS. McLEITCHIE: Let's take a brief break, if

1 that's okay, be off the record.

2 (Recess taken.)

3 BY MS. McLEITCHIE:

4 Q. So I want to go back and talk -- well, let's
5 just make sure I'm not missing anything. Besides the
6 email communications that you received giving you
7 instructions of what to search, what to search for,
8 whose email boxes to search, did you receive any other
9 direction about responding to these public records
10 requests from general counsel's office?

11 A. No.

12 Q. Did you ever communicate directly with
13 Ms. Smith-Johnson?

14 A. Other than telling her that the folders were
15 on her desktop, no.

16 Q. Other than your meeting this week about this
17 deposition, were all of your communications with the
18 general counsel's office about the R-J's public
19 records request for Trustee Child records, were they
20 all by email?

21 A. I may have called Jeanne-Marie Pochert Hanna
22 on the phone in December regarding the time frame with
23 the holidays, et cetera, about how fast I needed to do
24 this.

25 Q. Okay. So other than that phone call that may

1 have happened, anything else?

2 A. Primarily -- I do not recall any others. My
3 normal method would be email communication.

4 Q. And you do recall getting emails in this case
5 from general counsel's office about what searches to
6 do, correct?

7 A. Yes.

8 Q. And you don't recall any other communication
9 other than possibly the call in December about timing,
10 correct?

11 A. Correct.

12 Q. Okay. And you wouldn't -- besides
13 Ms. Smith-Johnson and general counsel's office, is
14 there anyone else you would have communicated with
15 about the R-J's public record requests for Child
16 records?

17 A. I would have informed my supervisor -- I may
18 have informed my supervisor that I was doing them.

19 Q. Who is your supervisor?

20 A. Rick Neal.

21 Q. And what is -- what is Rick Neal's title?

22 A. Chief Operating Officer.

23 Q. You did tell us what your title was. How
24 long have you been -- I know we talked a little bit
25 more about some of your duties. How long have you

1 been in that position at CCSD?

2 A. Since December of 2014.

3 Q. And what was your title before that?

4 A. Executive Director of Technology Division.

5 One is the No. 2 person in the technology
6 division and one is the No. 1 person in the technology
7 division.

8 Q. So what duties do you have now that you did
9 not have as executive director?

10 A. The supervision of the student records
11 services department, the supervision of the user
12 support services department, the supervision of the
13 human capital management systems department, and the
14 supervision of the student information systems
15 department.

16 Q. Okay. So you've got additional duties, but
17 you're still -- you supervise the current executive
18 director?

19 A. There is no executive director. That
20 position was eliminated upon my exiting the position.

21 Q. So you still have all the duties of your old
22 position?

23 A. Correct.

24 Q. So you are essentially the executive director
25 and the chief technology officer?

1 A. Which can be a bone of contention at times.

2 Q. Okay. And part of your duties -- this isn't
3 the only time that you have run searches for
4 responsive records to record requests, correct?

5 A. Correct.

6 Q. Do you consider it part of your job to help
7 other CCSD departments work on responses to public
8 records requests?

9 A. Unfortunately, yes.

10 Q. Why do you say "unfortunately"?

11 A. Because it is a duty that I would be glad to
12 hand off to someone else.

13 Q. Why?

14 A. Because I do not enjoy doing it; because
15 sometimes it takes a large chunk of time; because
16 sometimes it must be done after hours, et cetera.

17 Q. Do you think it's an important part of your
18 job?

19 A. It is, in the scheme of things, a minor part
20 of my job.

21 Q. What about with regard to litigation and
22 searches for documents for litigation; are you
23 involved in that at all?

24 A. No.

25 Q. So if -- you're never involved in ensuring

1 that document freezes occur?

2 A. I sometimes receive a copy of a litigation
3 hold with regards to documents. Sometimes I see
4 those, specifically with regards to the email, et
5 cetera. Sometimes I see those -- those come, and they
6 may be talking about videos or other things that are
7 sent to -- other people are also cc'd on that
8 litigation hold letter.

9 Q. So you don't do -- you said you see them. Do
10 you do anything to ensure that documents are retained
11 and not destroyed?

12 A. With regards to the email system, we have
13 backups. When I receive a litigation hold letter with
14 regards to an email -- a litigation hold letter, there
15 may be questions back to legal, okay, this -- what do
16 you want me to do here? I can export the user's
17 mailbox as of the date I received it, but that's all I
18 can do, given our current email system.

19 Q. Okay. What else could be done?

20 A. Well, other systems may be able to go back in
21 time and always hold data and never anything is --
22 nothing is ever deleted, et cetera.

23 Q. Okay.

24 A. I do not have one of those systems.

25 Q. Okay. But you said you don't have anything

1 to do with litigation holds. But it sounds like you
2 do, because you may freeze email boxes; you may create
3 a copy of an email box and ensure that those emails
4 are not deleted, correct?

5 A. Correct.

6 Q. Is there anything else you do in response to
7 litigation hold letters?

8 A. No.

9 Q. Is there anything else you do in response to
10 public records requests besides conducting searches
11 pursuant to direction from general counsel's office?

12 A. No.

13 Q. Does the direction always come from general
14 counsel's office, or sometimes does it come from
15 Ms. Smith-Johnson?

16 A. Always from general counsel's office.

17 Q. Okay. We started to talk --

18 A. Can I say --

19 Q. Yes, of course.

20 A. I believe one time Cynthia Smith-Johnson sent
21 the email, but general counsel's office was cc'd on
22 the email.

23 Q. So general counsel's office is always
24 involved --

25 A. Yes.

1 Q. -- in every single public records request?

2 A. Yes.

3 Q. Okay. So earlier, we talked a little bit
4 about other electronic records, and we started talking
5 about the fact that some people might save it locally,
6 it might be saved on a department server.

7 For example, Ms. Smith-Johnson creates a
8 Word -- I'm assuming you guys use Microsoft Word.

9 A. Yes.

10 Q. Let's say she created a Microsoft Word
11 document, Dear R-J, you can have these documents; you
12 can't have these; she saves it on her computer.

13 Do you ever search for electronic documents
14 like that in response to public records?

15 A. I do not.

16 Q. Do you know if anybody else does?

17 A. I do not -- none of my staff have been asked
18 to do that, to my knowledge.

19 Q. And is -- so you don't do that because you
20 have never been asked to do it by general counsel's
21 office?

22 A. Correct.

23 Q. Have you ever been copied on an email to a
24 department saying, Hey, search for electronic records?

25 A. I have received copies of a litigation hold

1 letter that said to freeze things, but not to search
2 for something, no.

3 Q. So you are not aware of anybody at CCSD ever
4 searching for emails that could be responsive to
5 public records requests?

6 A. Outside of my direct requests that came to me
7 to search the email, I am not aware of anything that
8 wouldn't have been my area.

9 Q. So you are not aware of anybody at CCSD --

10 A. I am not aware because it would not have come
11 to me.

12 Q. Who would it have come to?

13 A. The general counsel's office, could have gone
14 to whoever they went to. It wouldn't have been my job
15 function to tell them who to go to.

16 Q. If they asked anybody that worked in your
17 department, would you know that?

18 A. I would imagine my department leads would
19 have mentioned it to me.

20 Q. So to the best of your knowledge, nobody in
21 your department has ever searched for public records
22 responsive to public records request?

23 A. With regards to this item or with regards to
24 other items?

25 Q. With regard to any item.

1 A. Documents, no. Emails, yes.

2 Q. So besides emails, no one in -- to the best
3 of your knowledge, no one in your department has ever
4 searched for any responsive electronic records?

5 A. I do not -- I do not recall that, no.

6 Q. Okay. So I'm not an IT person, as you can
7 tell by my questions today. But we use the word
8 "electronic records," sometimes when lawyers send out
9 freeze letters, as you mentioned.

10 To you, what does "electronic record" mean?

11 A. "Electronic record," to me, might -- clearly
12 would entail email. It could entail files on a
13 server; it could entail other things that are stored
14 electronically on a computer.

15 Q. Okay. So if I said to you, Mr. Wray, I need
16 you to save all electronic records on your computer
17 about Maggie McLetchie -- let's imagine that you had
18 records about me on your computer -- what records
19 would you -- and you have to do this and you have to
20 save all these records, what would all the electronic
21 records that would pertain to somebody include?

22 A. If they -- files on my computer, emails in my
23 account, would be the things that I would be searching
24 for.

25 Q. So files, like the example I gave, a saved

1 Microsoft Word file is an electronic record, right?

2 A. Yes.

3 Q. So if you had to save every single electronic
4 file in your computer, you would save all the Word
5 files, spreadsheet files -- essentially, all the
6 records stored on your computer or on a server at CCSD
7 are by definition electronic records because of how
8 they're stored, right?

9 A. Yes.

10 Q. When CCSD gets a litigation hold letter, you
11 mentioned seeing some of those and being required to
12 save documents for that. Do you ever save electronic
13 records that are stored either on machines or on
14 networks?

15 A. I do not, no.

16 Q. Do you ever direct anybody to?

17 A. Because my department typically is not
18 involved in those issues and we do not do that as a
19 service, no. The schools, when they are in a
20 situation like that, they have access to do that
21 themselves, and that is the school's responsibility to
22 do that, not the central services.

23 Q. Okay. So let's say a teacher in a school
24 emailed a Word document to a principal at that school.
25 Some teachers could save their files to a central

1 server, as we were talking about earlier, correct?

2 A. Yes.

3 Q. And those central servers are under your
4 department, right?

5 A. We have access to the backups and such, and
6 the school has access also.

7 Q. Okay. So you could go and search those. If
8 a document is saved on a server of some sort, you
9 could go and search those documents, correct?

10 A. I believe so.

11 Q. When -- earlier we were talking about the
12 fact that it's encouraged that people created backups
13 to a central server, right?

14 A. They are encouraged to save their file to a
15 central server so the automatic backup system can
16 function.

17 Q. If somebody does follow what's encouraged and
18 save a backup -- I'm sorry -- save a file to a central
19 server that's then backed up, it's then on that
20 central server and it's backed up, correct?

21 A. Correct.

22 Q. So somebody could still have a copy on their
23 personal computer, but there would be two other
24 iterations of this document out there?

25 A. Backup copies of the document, yes.

1 Q. Both on the central server and on the backup
2 of the central server?

3 A. Most likely, yes.

4 Q. Okay. And how long -- how long are
5 electronic records -- like electronic files besides
6 emails, like Word documents -- how long are those
7 retained by the district?

8 A. I do not have that information off the top of
9 my head.

10 Q. Do you have an internal policy within your
11 department on retention of electronic files?

12 A. I would say I do not have a policy within my
13 department. My divisions, when they are doing that,
14 setting that up to back up those servers, they have a
15 policy, and I'm not aware of the details of that
16 policy off the top of my head.

17 Q. So there is no direction from your level down
18 about saving electronic files?

19 A. There is direction to make sure the backups
20 occur for disaster recovery purposes.

21 Q. What is that direction?

22 A. That we should be able to recover the system
23 as it exists in the case of hardware failure, malware
24 attack, virus attack, something like that, that we
25 should be able to restore the server as it existed.

1 Specific document retention as far as
2 expiration of it, when those documents expire, if so,
3 I do not have that off the top of my head right now.

4 Q. Okay. What about emails?

5 A. Email system -- the emails in mailboxes have
6 a default expiration by the system of 90 days in
7 FirstClass. Users can change those themselves, that
8 expiration time. They can decide to keep them longer;
9 they can decide to keep them shorter. I'm not aware
10 of anybody that does that. They can adjust -- the
11 user can adjust that themselves.

12 We do backups, and those backups are kept for
13 a period of 21 days for the purpose of disaster
14 recovery. They are -- those backups themselves are
15 not searchable separate; it has to be -- it would have
16 to be restored, restoring the entire system, in order
17 to then have a live system to search.

18 Q. Okay. So let's say a teacher at a school in
19 December emailed somebody and said, Trustee Child is
20 making me really uncomfortable. If that email -- if
21 either side of that email, the To and the From, were
22 searched between December and March, it's possible
23 that that email could have been destroyed pursuant to
24 the 90-day default destruction policy, correct?

25 A. It is possible, if the message had been sent

1 sometime prior and the 90 days had passed, that the
2 message could have expired, yes. If both parties had
3 the default 90 days.

4 Q. Is there any instruction to -- the default is
5 90 days, right?

6 A. The default is 90 days.

7 Q. Do you know whether most people change their
8 default?

9 A. I think most of the administrative offices do
10 change their default. I believe most teachers
11 probably do not, although some do. It is not
12 something -- they're allowed to.

13 Q. Are they allowed to make it shorter?

14 A. Yeah, they would be allowed to. I -- I
15 believe the system allows them to do it shorter; I
16 would have to check.

17 Q. Okay.

18 A. The default is 90, I do know that.

19 Q. Okay. And you don't search -- I think you
20 just indicated that you can't search the backups?

21 A. No.

22 Q. And you don't store a backup in order to do a
23 search?

24 A. Correct.

25 Q. So when you're performing services under

1 direction from general counsel's office, you are only
2 aware of what is in there as of the date you are
3 performing the search, correct?

4 A. Correct.

5 Q. So if somebody sent an email in November and
6 they've got a -- they've got a 30-day default, and you
7 search in December, you're not going to get that
8 email?

9 A. Depending on the days. If the 30 days had
10 expired, the potential for not getting that email
11 exists.

12 Q. Got it. I'm going to give you a new
13 document, which might take you down memory lane.

14 This is going to be Exhibit 24.

15 Do you recall this case?

16 A. Yes.

17 Q. What case is this?

18 A. I believe this was Karen Gray wanting all the
19 trustees' emails.

20 Q. So if you turn to page 12 -- and do you
21 recall testifying in this case?

22 A. I recall being in the -- testifying, yes.

23 Q. In an evidentiary hearing?

24 A. I don't recall what kind of hearing it was.
25 I recall being there.

1 Q. Actually, let's go back to page 11 so you get
2 a little bit of context.

3 There is some conversation here where the
4 court is saying, on line 13 -- and it was Judge Susan
5 Johnson -- she says, "Okay, before we hear from
6 counsel for the ACLU and Ms. Gray, I'm going to ask
7 you to do something for me and talk a little bit more
8 in English."

9 And "The Witness" is you. We can go earlier
10 on if you want to see where you were sworn in. That's
11 on page 6.

12 A. I remember being there, it's okay.

13 Q. I just want to make sure we're on the same
14 page.

15 So the court is basically asking you to do a
16 little bit what I have asked you to do today, to
17 explain some -- to explain about reviewing emails.

18 So if you want to read to yourself at the
19 bottom of page 11 what she's asking you and asking to
20 understand.

21 A. As I recall, I was somewhat confused about
22 what she was asking.

23 Q. I don't see you asking for clarification.

24 A. No, I understand that.

25 Q. So in your answer there -- she is asking for

1 information about storage and emails and documents.
2 And, again, Karen Gray was trying to get trustee
3 emails and the district was trying to not give them to
4 her. And in full disclosure, I worked with the ACLU.

5 In the witness's answer there, that's you, on
6 line 6, it says: I was notified in February of 2007,
7 when it was my understanding that Ms. Gray went to the
8 school board and said that she wanted to get this
9 information. It's my understanding that Shirley
10 Barber then made that request. And at that point,
11 Mr. Hoffman said you need to make sure you preserve
12 the mailboxes at that point. So we did. We took a
13 snapshot as the system existed that day -- we believe
14 the day was February 23rd, 2007 -- and preserved that,
15 okay? Since then, time marches on -- then time -- as
16 time marches on, you know, people add, delete the
17 system. It has an auto expiry. The default expiry is
18 90 days, so these messages could easily have been
19 deleted in that -- in the intervening time.

20 Do you see that?

21 A. Yes.

22 Q. So in that case, Ms. Gray asked for records,
23 the school district didn't want to hand them over,
24 there were issues about who should pay for what costs.
25 But while that dispute was happening, it seems like

1 when Ms. Gray -- the way I understand your
2 testimony -- is it when Ms. Gray asked for the
3 records, while we were litigating and while we were
4 trying to figure out everything that was going on in
5 this case, you did freeze the email boxes of the
6 people she was trying to get email from?

7 A. General counsel asked if I could make a copy
8 of the mailboxes, and I said their mailboxes were
9 quite large and the system wouldn't let me just export
10 the mailboxes.

11 So we took a backup snapshot at that time and
12 watched as that -- the way technology works is the
13 size of the snapshot grows as it continues to
14 differentiate. As time marches on, as the system
15 changes from what it looked like then, the size of the
16 backup gets larger and larger and larger and larger
17 and larger, and so we did a snapshot for backup
18 purposes for that date that I was asked to do that.
19 And that was the easiest thing that we could do at
20 that point.

21 Q. Okay. And then the next paragraph, it says:
22 So in order to get the system as it existed on the
23 date I was told to preserve the evidence, we have to
24 go to that backup.

25 So at some point, you went to that backup to

1 produce records, right?

2 A. Correct.

3 Q. And the reason you did that backup was to
4 preserve records and evidence?

5 A. The general counsel asked me to preserve
6 these mailboxes.

7 Q. And you were never asked to preserve records
8 regarding Trustee Child in response to the
9 Review-Journal's public records request, were you?

10 A. I do not believe so, no.

11 Q. Earlier we talked about everything you did to
12 search for and to respond to these public record
13 requests, you certified everything that you did other
14 than the minor correction about how many searches were
15 done in December, correct?

16 A. Correct.

17 Q. And you do not recall that you were asked to
18 search -- I'm sorry -- that you were asked to preserve
19 records that might be responsive to the Review-Journal
20 public record requests about Trustee Child, correct?

21 A. No.

22 Q. So in the Gray case, you did remember that
23 you were asked to?

24 A. Yes.

25 Q. If you had been asked to in this case,

1 wouldn't you recall?

2 A. Yes.

3 Q. Because you can remember all the way back to
4 the Gray case?

5 A. Because I remember it -- it's not always
6 comfortable sitting with counsels and being asked
7 questions. But, yes, it tends to be fairly traumatic
8 for your average citizen.

9 MS. McLEITCHIE: So we'll mark that as Exhibit
10 24.

11 (Petitioner's Exhibit 24 was marked for
12 identification.)

13 MS. McLEITCHIE: And then we'll go to what I
14 forgot to make an exhibit yesterday, and this will be
15 Exhibit 25.

16 Q. I think the things I want to ask -- feel free
17 to leaf through, if you want to get familiar with the
18 document, but the things I want to ask you about are
19 on page 19.

20 Are you familiar with this document,
21 Mr. Wray?

22 A. I have seen it before, yes.

23 Q. And on the first page, it says, "Clark County
24 School District Regulation R-3621, Records Retention
25 Schedule."

1 And it looks like this is a document that
2 pertains to retention schedule for records.

3 A. Yes.

4 Q. So if you go to that page 19, under item
5 No. 4, this appears to be a directive to CCSD
6 employees about how to store documents that are public
7 records.

8 Does that appear to be correct to you?

9 A. Yes.

10 Q. And at the bottom, for example, we've been
11 talking about emails, it says, "Once an email
12 transmittal is determined to be a public record,
13 district employees have an obligation to apply the
14 appropriate records retention schedule. For retention
15 purposes, the records should be maintained in an
16 easily accessible location, which may include:

17 "1) Printing out a copy and filing a hard
18 copy in the relevant subject matter file; or,

19 "2) Moving the file out of the email system
20 and storing a copy of the email in an electronic
21 document management" -- in "an electronic document
22 management system."

23 Where -- first of all, are you familiar with
24 this policy?

25 A. Yes.

1 Q. Do you follow this policy?

2 A. Try to.

3 Q. And how do you try to?

4 A. When I am made aware that something is -- me
5 personally that there is an item of public record,
6 print it out, it gets filed.

7 Q. So when you think a document on your own
8 computer is a public record, your practice is to print
9 it and file it?

10 A. Yes.

11 Q. And how do you determine whether something is
12 a public record that you have to do this for?

13 A. When it's certain things that as you --
14 during the course of business, things that are policy
15 directives, et cetera, you know, they -- as you work
16 on it, that's a public record, we should file that.
17 You just try to keep that idea in your mind, together
18 with my secretary, to try to keep track of those
19 things.

20 Q. You said policy directive. So there is a
21 document --

22 A. Policy directive, all of those things that
23 are listed here that may constitute public record.
24 Some of them stay on the computer, they don't get
25 printed out, okay? But they are accessible because it

1 backs up, et cetera, it's still available as an
2 electronic document. Others get printed. Most of the
3 time when we're thinking, hey, that's a public record,
4 we try to print it and file it.

5 Q. Okay. And the policy says that you should
6 either print it and file it or move it out of -- if
7 it's an email --

8 A. If it's an email.

9 Q. -- move it out of the email and store it in
10 electronic document management system, right?

11 A. Uh-huh.

12 Q. Doesn't say you should try to, says you
13 should.

14 A. Yes, it does.

15 Q. And you do this for emails by printing out
16 hard copies?

17 A. For emails, I mostly do not. Most of the
18 time, the emails stay in the email system until there
19 is an issue that's come up. And then search the
20 emails and then make a copy of the email.

21 Q. So you don't archive your emails as this
22 policy directs you to until something comes up?

23 A. I personally keep my -- I personally keep my
24 sent messages, all of them.

25 Q. Keep them where?

1 A. Within the email system. But I keep them
2 within the email, all of my sent mail. When people
3 send them to me, I do let those expire. But messages
4 I send, I keep. I've been doing that since 2002 or
5 so.

6 Q. So you have no expiration date of sent
7 emails?

8 A. Due to my former role as one of the system
9 administrators, I gave myself unlimited access space
10 to do that.

11 Q. Okay. But not everybody has that ability?

12 A. No, most people do not.

13 Q. Okay. And that's why they're supposed to
14 either print it out or put it in a different
15 electronic document retention system?

16 A. Correct.

17 Q. But a public record could be in someone's
18 inbox, correct? You could receive a copy of a public
19 record.

20 A. Yes.

21 Q. It seems like you have defined public record
22 as a record that's relevant if something comes up. I
23 don't understand what that means.

24 A. By the definition here, it's a matter of
25 public record. But do we always have the resources,

1 et cetera, to do every one of these things? I would
2 say that most employees probably do not.

3 Q. So you don't know if this policy is followed?

4 A. I would think -- in my own experience, I do
5 not always follow this policy.

6 Q. And you testified that most employees
7 probably don't?

8 A. I do not have firsthand knowledge of that,
9 but I am guessing that most employees probably do not
10 print out every copy of their email that might fall
11 into a work schedule or an assignment or an agenda of
12 a meeting that they receive. I would imagine that
13 they don't all print those out and file them after
14 they're done with that specific agenda.

15 Q. The other option would be to store a copy of
16 that in an electronic document management system,
17 right?

18 A. That's what it says, yes.

19 Q. But what does that mean?

20 A. An electronic document management system?

21 Q. Uh-huh.

22 A. Those are number -- those are envisioned by
23 some people as a separate product that you scan a
24 document in and then it makes a copy of it. And some
25 people have, in the district, have bought those what

1 we have referred to as eCabinets, and done that with
2 that.

3 Q. But just to be clear, it's some other
4 electronic document management system other than the
5 email, because it says moving the file out of the
6 email system and storing a copy in an electronic
7 document management system.

8 A. If you let me finish my previous --

9 Q. I apologize.

10 A. Okay.

11 That is one view of some departments, et
12 cetera, an eCabinet, a separate system.

13 I believe most of our users treat their email
14 system as that electronic document management system.
15 That's how most of them treat it.

16 Q. Okay. So most of them treat it that way, but
17 what the policy says is to move -- to either print it
18 out or to move the file out of the email system and to
19 store a copy in an electronic document system.

20 A. That is what that text says.

21 Q. So it does not seem to contemplate just
22 leaving it in their InterAct system?

23 A. That is not what it says.

24 Q. I'm sorry; so it doesn't say --

25 A. In discussions with a former general counsel,

1 we discussed it, and I wanted him to put that in
2 there, and he did not.

3 Q. Okay.

4 A. So I felt like we could leave it there in the
5 email system, et cetera, and that would suffice for
6 the policy, but that's what the policy would have to
7 say.

8 Q. Would it suffice for a policy if a records
9 retention schedule is longer than 90 days?

10 MR. HONEY: Would you repeat the question,
11 please?

12 BY MS. McLEITCHIE:

13 Q. Would it suffice -- did you need me to repeat
14 the question?

15 A. Yes, please.

16 Q. Okay. You can ask me to repeat a question at
17 any time.

18 So the policy, you said most people -- you
19 wanted general counsel to add something here saying
20 that storing something in your email would be
21 sufficient. But storing in email with a default
22 destruction date that's shorter than the retention
23 schedule would not suffice under this policy, would
24 it?

25 A. No. But a user could and should change the

1 expiration of that email or that set of emails, and
2 that is easily done for them.

3 Q. Okay. So this policy could have been adapted
4 to instruct people to have a longer retention schedule
5 on their -- a longer save period on their email, if
6 you will, and then it would suffice under this policy?

7 A. For those messages that matched public record
8 policy here.

9 Q. Okay. Okay, so there is a list here of
10 what's a public record. But is it your understanding
11 that any record created by an employee of the school
12 district, the default is that it's a public record?
13 Is that your understanding?

14 A. No.

15 Q. What's your understanding?

16 A. My understanding is that these things may
17 constitute a public record that many -- some records
18 are transitory, some are duplicate, some are personal
19 messages. All of those occur.

20 Q. Okay. So --

21 A. As a matter of fact, I would think that in
22 many instances, the public record, as it was done, was
23 done via memo or something like that, and that the
24 message in the email was either a duplicate or was a
25 transitory-type, confirmatory-type situation. I think

1 most -- we go to a meeting, there is a printed agenda,
2 et cetera.

3 Q. So it's your view that if there is a draft of
4 that agenda, it's not a public record?

5 A. That would be my --

6 MR. HONEY: Objection: misstates his
7 testimony. He didn't say anything about a draft.

8 BY MS. McLEITCHIE:

9 Q. You've answered my question, but let's make
10 sure, if Mr. Honey wants to object, you give him time
11 to do so.

12 But the example that I gave, you said if
13 there is a final agenda, that's the public record.
14 Other versions of that agenda wouldn't be public
15 records?

16 A. That would be how -- that would be my
17 interpretation. I am not the person who makes that
18 policy with CCSD.

19 Q. I understand. I want your understanding,
20 that's all I'm trying to get here.

21 You mentioned "transitory." What does that
22 mean?

23 A. It's just a temporary message, Hey, I'm going
24 to be late to a meeting, something like that.

25 Q. Okay. And you mentioned personal use. In

1 the Gray case, you probably recall that there were
2 some issues about the costs involved in searching, and
3 one of the issues was that CCSD allowed employees to
4 use their email boxes for personal emails.

5 We've also discussed today issues about, you
6 know, you have to go on a server after hours because
7 the server can get overloaded and there is a lot of
8 employees, a lot of students, a lot of information.

9 Is it -- are you aware of whether CCSD has
10 ever instructed its employees not to further burden
11 the system by using CCSD email for personal business?

12 A. It has been said -- while the current
13 acceptable use policy says, I believe, that
14 nonincidental personal use is acceptable, that they
15 should, with the advent over time of free email
16 services, a la Hotmail, Google email, et cetera, that
17 people, general public, can get an email account for
18 free, that it has been discouraged. I've heard people
19 say you shouldn't be using InterAct for your personal
20 email.

21 Nevertheless, I believe the policy is -- the
22 acceptable use policy still states nonincidental --

23 Q. I'm just going to --

24 A. Excuse me.

25 Now, I don't remember what word it says, but

1 it is not forbidden, but it is not encouraged.

2 Q. Okay. Am I correct in thinking that if we
3 don't -- if CCSD employees don't use CCSD email, the
4 email system, for personal emails, that makes
5 searching easier, for example, in response to public
6 records requests?

7 A. The searching of the email system is just
8 searching messages, whether they're -- it may add
9 time, additional CPU cycles or computer time to search
10 it, and it would add additional messages -- if every
11 Facebook posting alert was in their InterAct mailbox,
12 there would be more messages that have to be
13 searched -- but it's not -- once the search is
14 occurring, the computer is searching the volume of
15 those, whatever that is.

16 Q. When we were talking earlier, when I asked
17 whether or not you thought responding to these record
18 requests involved extraordinary use, you did mention
19 that you had objection to the search terms because it
20 took time.

21 So time is one of concerns when you're trying
22 to do work responding to public records requests?

23 A. It's a concern of mine. Does not mean that I
24 don't do it when I'm asked.

25 Q. I understand. And you don't like responding

1 to public record requests at all?

2 A. It's not my favorite activity in the scheme
3 of things.

4 Q. Okay. So going back to this policy for a
5 second. Have you ever -- have you ever searched
6 either a hard copy file or a backup electronic
7 document management system file when searching for
8 emails in a response to a Public Records Act request?

9 A. When that public records request was with
10 regards to me, I have. When it's been with regards to
11 other people's things, no, I have not.

12 Q. Okay. How long is the retention policy --
13 how long do the emails in your inbox get stored?

14 A. My personal inbox expires after a number,
15 limit number, is reached. I store 4,096 messages. So
16 for me that varies: sometimes that might be 4 months;
17 it might be 12 months. I have made that decision to
18 keep 4- -- 4,000, roughly, messages in my inbox. Not
19 counting sent messages, I keep that 4,000.

20 Q. Do you have subfolders in your inbox?

21 A. Yes, I do.

22 Q. And how long are those saved for?

23 A. They stay there until I either remove them or
24 delete them.

25 Q. Okay. So they're like your sent folder?

1 A. They are -- the Sent folder is one of those
2 folders, but I may keep other frequently asked
3 questions. I get asked questions about when is the
4 wi-fi refreshment going to occur at XYZ elementary,
5 middle, or high school. So I keep -- that's a
6 document that I frequently access, I keep that -- that
7 email was sent with that list, I keep that in my
8 frequently asked questions folder that doesn't expire.

9 Q. Okay. So there are certain folders in your
10 inbox that don't expire?

11 A. As a user, yes. I have made those
12 nonexpiring by action.

13 MS. McLEITCHIE: Understood.

14 Let's just take a brief break to make sure I
15 don't have any further questions. We'll be off the
16 record for a few minutes.

17 (Petitioner's Exhibit 25 was marked for
18 identification.)

19 BY MS. McLEITCHIE:

20 Q. I just have a few questions.

21 So the -- are there some electronic documents
22 that are -- besides email -- that are only stored on
23 the central server at CCSD?

24 A. There isn't one central server.

25 Q. I'm sorry. On a central server. We talked

1 about servers that are department servers and some
2 servers that are kept centrally under the control of
3 your department.

4 So are there some documents that are
5 electronic documents that may only be saved on the
6 central server?

7 A. Yes.

8 Q. On a central server?

9 A. Yes.

10 Q. But you have ever searched a central server
11 for electronic records other than emails?

12 A. I have not.

13 Q. Do you know of anyone who has?

14 A. I do not know if they have.

15 Q. Okay. Either for litigation or for
16 responding to public records requests?

17 A. Not that I have personal knowledge of. I
18 have every reason to believe that, because of a
19 litigation hold letter, that schools have searched
20 their servers that they have access to for responsive
21 public records or electronic records.

22 Q. Right. But when we talk about a school
23 server or department server, I'm not talking about
24 those servers; I'm talking about a central server.

25 A. Those central servers are used by departments

1 and schools.

2 Q. Okay. Oh. So I think I understand.

3 But for InterAct email, those are only stored
4 on a central server?

5 A. Correct.

6 Q. And do you have access -- so you're calling
7 this department -- when the department, a school, for
8 example, saves electronic records on a central server,
9 are those controlled by the department or by your
10 department?

11 A. Both entities have access.

12 Q. Okay. So are there -- do schools, for
13 example, have access to the InterAct server?

14 A. The individual users have access to the
15 server, hence --

16 Q. That -- I'm sorry; go ahead.

17 A. Hence, if a principal has a situation going
18 on with a litigation hold letter and he knows who the
19 student is and who the teachers are, he may very well
20 ask the teachers involved to search their emails and
21 produce those in PDF or print them, et cetera. And he
22 could have them -- he could request that they do that
23 as the employee.

24 Q. As part of litigation holds, is that the
25 usual practice, or is it the usual practice for you to

1 also search the InterAct server?

2 A. It's normal practice that the school handles
3 it.

4 Q. But you have searched the InterAct server for
5 litigation and for public records requests?

6 A. Yes.

7 Q. Are you -- and you are aware that schools do
8 their own searches sometimes of InterAct for
9 litigation?

10 A. I believe that they do, yes.

11 Q. Do you know if they do for public records
12 requests?

13 A. I am not privy to those public records
14 requests; it doesn't come to me, so I am not aware of
15 it. I have every reason to believe that they probably
16 do.

17 Q. Would there be a reason for the general
18 counsel's office to ask you to search the InterAct
19 server, like they did in this case, for example, and
20 also have the school do a search?

21 A. They may. I do not know.

22 Q. I'm trying to understand why that might
23 happen. Because you mentioned that you think it could
24 happen.

25 A. I don't know.

1 Q. Okay. So let's say I wanted to get copies of
2 electronic files regarding Trustee Child that were
3 sent that may be in the possession of principals at
4 various schools. How would I go about getting those?

5 A. If it were me, I would contact the
6 principals. I would tell the principals to search
7 their files and servers.

8 Q. If a principal creates a Microsoft Word
9 document, let's imagine that they're writing a list of
10 terrible things that Trustee Child did, and they're
11 creating this Microsoft Word document -- this is just
12 hypothetical right this second -- they create a Word
13 document, and it's a report of behavior by Trustee
14 Child. They create this Microsoft Word document and
15 they save it. It would either be saved -- it could be
16 saved on your desktop, right?

17 A. (Nods head.)

18 Q. If they had a laptop, it could be saved on
19 your laptop?

20 A. (Nods head.)

21 Q. Yes?

22 A. Yes.

23 Q. I think when I asked the question --

24 A. I was waiting for you to finish the question
25 to answer.

1 Q. So if they created a Word document about
2 Trustee Child, a principal, it could be saved on the
3 principal's desktop, correct?

4 A. Yes.

5 Q. Or it could be saved on the principal's
6 laptop, correct?

7 A. Yes.

8 Q. If the principal set up their backup system
9 this way, it could be saved on a central server at the
10 school, correct?

11 A. Yes.

12 Q. It could also be printed out in a hard copy,
13 correct?

14 A. Yes.

15 Q. Is there anywhere else it could be?

16 A. If the school had purchased some other
17 document management system, it might be in that, but
18 that would be something at the school.

19 Q. Are you familiar with schools purchasing
20 their own document management systems?

21 A. No, I am not.

22 Q. We're just --

23 A. Hypothetically speaking.

24 Q. You mentioned tablets. Who gets issued
25 tablets?

1 A. That is handled at the department level.

2 Q. So you don't really know?

3 A. I do not know. I may be aware of, in the
4 sense that they might call my user support, Hey, how
5 do I do this; how do I configure it to access the
6 Internet; how do I configure it to access the server;
7 how do I --

8 Q. Got it.

9 A. -- but I am not involved in the dissemination
10 of those with the exception of student devices where
11 my department may actually go out there -- my user
12 support department may go out there and assist a
13 school with dissemination of student devices.

14 Q. So going back to my hypothetical where a
15 principal created a Microsoft Word document about
16 Trustee Child and saved it. They could also save it
17 on a USB drive, right?

18 A. Correct.

19 Q. If they use their desktop machine at CCSD
20 with another email account, it could have been emailed
21 through that account, correct?

22 A. Yes.

23 Q. There is no bar about going on the Internet
24 and logging on to, say, Gmail at CCSD?

25 A. No, there is not. Currently, there is not.

1 Q. Are you thinking about doing that?

2 A. No. We used to.

3 Q. Oh, I understand. Okay.

4 Do you have a cell phone issued to you from
5 CCSD?

6 A. I do not.

7 Q. Do you know who does?

8 A. I do not.

9 Q. Do you know if somebody has them?

10 A. There are some people who have them as part
11 of their work responsibilities.

12 Q. So how do you know that if you don't know who
13 has them?

14 A. Well, I know individuals, but I do not know
15 them as -- categories, I know that my networking
16 services department, its technicians that are in the
17 field, they issue cell phones to them because it
18 provides both communication and tracking.

19 Q. Got it. Anybody else that you know has a
20 cell phone issued by CCSD?

21 A. There are people that are in facilities that
22 are in that same situation. These are technicians
23 primarily.

24 Q. Got it.

25 A. I believe I have heard of others, but I do

1 not have any personal knowledge of that. And I do not
2 do it for my administrators.

3 Q. Do you know of any trustees that have cell
4 phones issued by the district?

5 A. I do not know.

6 MS. McLEITCHIE: I've got no other questions,
7 unless Mr. Honey does.

8 MR. HONEY: No questions.

9 MS. McLEITCHIE: Is there anything you wanted
10 to add?

11 THE WITNESS: How busy is Chick-fil-A at this
12 time of day?

13 MS. McLEITCHIE: Before we go off the record,
14 Mr. Honey, did you want the opportunity to allow
15 Mr. Wray to review the transcript?

16 MR. HONEY: Sure.

17 MS. McLEITCHIE: You'll get a copy of the
18 transcript, and Mr. Honey might review it with you,
19 and you can go over it. And you are entitled to make
20 changes, corrections; I certainly can make arguments
21 in a court of law about any additions, changes that
22 you made.

23 We took a brief break today. Is there
24 anything that you testified earlier to today that you
25 need to correct?

1 THE WITNESS: Not that I recall.

2 MS. McLEITCHIE: We talked -- I think we
3 covered exhaustively everything that you did to assist
4 general counsel's office and to otherwise respond to
5 public records requests from the Las Vegas
6 Review-Journal regarding Trustee Child.

7 Is there anything that you didn't tell me
8 that we didn't talk about today that you did with
9 regard to the Las Vegas Review-Journal's public
10 records request for documents concerning Trustee
11 Child?

12 THE WITNESS: No.

13 MS. McLEITCHIE: That's all I have. Thank
14 you.

15 (Thereupon, the taking of the
16 deposition was concluded
17 at 11:58 a.m.)

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REPORTER'S DECLARATION

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Michelle C. Johnson, CCR 771, declare as follows:

That I reported the taking of the deposition of the witness, DANIEL ROBERT WRAY, commencing on Thursday, August 10, 2017 at 10:01 a.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I simultaneously transcribed my said shorthand notes into typewriting via computer-aided transcription, and that the typewritten transcript of said deposition is a complete, true, and accurate transcription of said shorthand notes taken down at said time. That prior to completion of the proceedings, review of the transcript pursuant to NRCP 30(e) was requested.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated: September 5, 2017



Michelle C. Johnson,
RPR-CRR, CCR No. 771

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REGISTER OF ACTIONS

CASE NO. A-17-750151-W

Las Vegas Review-Journal, Plaintiff(s) vs. Clark County School District, Defendant(s)

ict, §
§
§
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Case Type: Writ of Mandamus
Date Filed: 01/26/2017
Location: Department 16
Cross-Reference Case Number: A750151
Supreme Court No.: 73525

PARTY INFORMATION

Defendant	Clark County School District	Lead Attorneys Carlos L McDade Retained 702-869-8801(W)
Plaintiff	Las Vegas Review-Journal	Margaret A. McLetchie Retained 702-728-5300(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

01/26/2017 Petition
Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011

01/26/2017 Initial Appearance Fee Disclosure
Initial Appearance Fee Disclosure (NRS Chapter)

02/02/2017 Affidavit of Service
Affidavit of Service

02/08/2017 Order
Order Setting Hearing on Writ of Mandate

02/08/2017 Notice of Entry of Order
Notice of Entry of Order

02/08/2017 Ex Parte Motion
Ex Parte Motion for Order Shortening Time and Request for Expedited Hearing

02/14/2017 Hearing (9:00 AM) (Judicial Officer Williams, Timothy C.)
Hearing: Writ of Mandate
[Parties Present](#)
[Minutes](#)

02/22/2017 Result: Matter Heard
Order
Order Granting Writ of Mandate

02/23/2017 Notice of Entry of Order
Notice of Entry of Order

03/01/2017 Amended Petition
Amended Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011

03/02/2017 Status Check (9:00 AM) (Judicial Officer Williams, Timothy C.)
03/02/2017, 03/14/2017
[Parties Present](#)
[Minutes](#)

03/16/2017 Result: Matter Continued
Stipulation and Order
Stipulation and Order

03/20/2017 Notice of Entry of Order
Notice of Entry of Order

03/27/2017 Order
Order Regarding Briefing Schedule

03/27/2017 Notice of Entry of Order
Notice of Entry of Order

03/29/2017 Petitioners Opening Brief
Opening Brief in Support of Amended Public Records Act Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus

04/13/2017 Answering Brief
Respondent's Answering Brief to Petitioner's Amended Public Records Act Application/Petition of Writ of Mandamus

04/24/2017 Reply
Reply Brief To Respondent's Answering Brief To Petitioner's Opening Brief And Public Records Act Application / Petition For Writ Of Mandamus

04/25/2017 Amended Certificate of Service
Amended Certificate of Service for Reply Brief

05/09/2017 Hearing (9:00 AM) (Judicial Officer Williams, Timothy C.)
05/09/2017, 06/15/2017, 06/27/2017
Hearing: Search Parameters
[Parties Present](#)
[Minutes](#)

RA648

	06/15/2017 Reset by Court to 06/15/2017
	Result: Matter Heard
06/06/2017	Status Check (9:00 AM) (Judicial Officer Williams, Timothy C.)
	Status Check: Hearing (5/9/17)
	Minutes
	Result: Matter Heard
06/06/2017	Order
	Order Granting Writ of Mandamus as to Jurisdiction and Search Parameters
06/06/2017	Notice of Entry of Order
	Notice of Entry of Order
06/13/2017	Memorandum
	Memorandum Regarding CCSD's Privilege and Certifications
07/11/2017	Order
	Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions
07/12/2017	Notice of Entry of Order
	Notice of Entry of Order
07/12/2017	Motion to Stay
	Respondent's Motion to Stay Enforcement of order granting writ of mandamus as to withheld records pursuant to nrpc 62(c), (d) & e pending appeal on order shortening time
07/12/2017	Case Appeal Statement
	Case Appeal Statement
07/12/2017	Notice of Appeal
	Notice of Appeal
07/19/2017	Opposition
	Petitioner Las Vegas Review-Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRCP 62(c),(d), & (e) Pending Appeal on Order Shortening Time
07/21/2017	Reply in Support
	Respondent's Reply in Support of Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withhold Records Pursuant to NRCP 62(c), (d) & (e) Pending Appeal on Order Shortening Time
07/27/2017	Motion to Stay (9:00 AM) (Judicial Officer Williams, Timothy C.)
	Respondent's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRCP 62 (c), (d) 7 (e) Pending Appeal on Order Shortening Time
	Parties Present
	Minutes
	Result: Motion Denied
07/31/2017	Stipulation and Order
	Stipulation and Order
07/31/2017	Notice of Entry of Order
	Notice of Entry of Order
08/04/2017	Order
	Order Denying Stay
08/04/2017	Notice of Entry of Order
	Notice of Entry of Order
09/11/2017	Request
	Request for Transcripts of Proceedings
09/12/2017	Stipulation and Order
	Stipulation and Order
09/12/2017	Notice of Entry of Order
	Notice of Entry of Order
09/19/2017	Motion for Attorney Fees and Costs
	Petitioner Las Vegas Review-Journal Motion for Attorney's fees and Costs
09/19/2017	Exhibits
	Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs
09/20/2017	Errata
	Errata to Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs
09/21/2017	Transcript of Proceedings
	Reporters transcript of Motion for Petition to Stay
09/21/2017	Reporters T ranscript
	Court Reporters transcript of Writ of Mandate
10/03/2017	Errata
	Errata to Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs
10/03/2017	Motion for Attorney Fees and Costs
	Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith
10/13/2017	Stipulation and Order
	Stipulation and Order
10/17/2017	Notice of Entry of Stipulation and Order
	Notice of Entry of Stipulation and Order
10/31/2017	Opposition
	Respondent's Opposition to LVRJ's Motion for Attorney Fees and Costs
10/31/2017	Opposition
	CCSD's Opposition to LCRJ's Motion to Find Bad Faith
11/13/2017	Reply
	Petitioner Las Vegas Review-Journal's Omnibus Reply to Respondent's Opposition to Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith
11/16/2017	Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer Williams, Timothy C.)
	11/16/2017, 01/04/2018
	Petitioner Las Vegas Review-Journal Motion for Attorney's fees and Costs AND Request for Order Finding CCSD Acted in Bad Faith
	Parties Present
	Minutes
	10/24/2017 Reset by Court to 11/16/2017

RA649

1/17/2018	Result: Briefing Schedule Set
11/22/2017	Stipulation and Order Stipulation and Order Regarding Supplemental Briefing Schedule
11/22/2017	Notice of Entry of Order Notice of Entry of Order
12/07/2017	Supplement Petitioner Las Vegas Review-Journal's Supplement to Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith
12/18/2017	Opposition CCSD's Opposition to LVRJ's Supplement to Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith and CCSD's Motion to Strike Improper Argument in LVRJ's Supplemental Motions
12/19/2017	Errata Errata to CCSD's Opposition to LVRJ's supplement to motion for attorney's fees and costs and motion to find CCSD in bad faith and CCSD's motion to strike improper argument in LVRJ's supplement
12/28/2017	Reply to Opposition Reply to CCSD's Opposition to Supplement to Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith and Opposition to CCSD's Motion to Strike Improper Argument
01/04/2018	Opposition and Countermotion (9:00 AM) (Judicial Officer Williams, Timothy C.) CCSD's Opposition to LVRJ's Supplement to Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith and CCSD's Motion to Strike Improper Argument in LVRJ's Supplemental Motions
01/04/2018	Result: Matter Heard All Pending Motions (9:00 AM) (Judicial Officer Williams, Timothy C.) Parties Present Minutes
01/11/2018	Result: Matter Heard Supplement Petitioner Las Vegas Review-Journal's Supplement to Motion for Attorney's Fees and Costs

FINANCIAL INFORMATION

	Defendant Clark County School District	
	Total Financial Assessment	24.00
	Total Payments and Credits	24.00
	Balance Due as of 01/17/2018	0.00
07/13/2017	Transaction Assessment	24.00
07/13/2017	Fee Waiver	(24.00)
	Plaintiff Las Vegas Review-Journal	
	Total Financial Assessment	270.00
	Total Payments and Credits	270.00
	Balance Due as of 01/17/2018	0.00
01/27/2017	Transaction Assessment	270.00
01/27/2017	Efile Payment Receipt # 2017-08653-CCCLK Las Vegas Review-Journal	(270.00)

RA650

CLARK COUNTY SCHOOL DISTRICT REGULATION

1212

CONFIDENTIAL INFORMATION: ALL EMPLOYEES

Confidential information concerning all personnel will be safeguarded.

Review Responsibility: Human Resources Division
Adopted: [1311:7/11/63] (7/72;10/8/81)
Pol Gov Rev: 6/28/01

RA651

CLARK COUNTY SCHOOL DISTRICT REGULATION

R-4110

EMPLOYMENT DISCRIMINATION, HARASSMENT, AND SEXUAL HARASSMENT: ALL EMPLOYEES

- I. The Clark County School District (hereafter the "District") is an equal opportunity employer and does not discriminate in any employment practice on the basis of race, color, sex, age, religion or religious creed, national origin, sexual orientation, gender identity or expression, ancestry, or disability. This regulation extends to recruiting and hiring, working conditions, training, promotion, and terms and conditions of employment.
 - A. Unlawful discrimination, harassment, and sexual harassment will not be tolerated.
 - B. All employees shall cooperate with the investigation, by the District, of an alleged act of discrimination, harassment, or sexual harassment.
 - C. The District will not retaliate against any person who has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing conducted by authorized school district representatives.

II. HARASSMENT

- A. Harassment of an individual constitutes unlawful discrimination when the victim perceives the work environment to be hostile and the harassing conduct is sufficiently pervasive or severe that a reasonable person would find it hostile or abusive.
- B. Whether conduct constitutes unlawful harassment depends on all of the circumstances of the particular case. Examples of conduct that may, depending on the particular circumstances, constitute unlawful harassment include, but are not limited to:
 1. Slurs, epithets, derogatory or degrading comments, threats, or verbal abuse;
 2. Offensive and unwelcome posters, drawings, pictures, or gestures;
 3. Offensive and unwelcome jokes, stories, rumors, or teasing; and
 4. Any other physical, verbal, or visual conduct that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

III. SEXUAL HARASSMENT

- A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute unlawful sexual harassment when:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - 2. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
- B. Examples of conduct that may, depending on the circumstances, constitute unlawful sexual harassment include, but are not limited to:
 - 1. Sexual assault, coerced intercourse, fondling, patting, pinching, or other actual or attempted unwanted physical touching;
 - 2. Sexual propositions, pressure for sex, or insistent and unwelcome invitations for dates;
 - 3. Slurs, epithets, derogatory or degrading comments, sexual innuendoes or remarks, threats, or verbal abuse of a sexual nature;
 - 4. Offensive and unwelcome posters, drawings, pictures, or gestures;
 - 5. Offensive and unwelcome jokes, stories, rumors, sexual horseplay, ogling, or teasing; and
 - 6. Any other physical, verbal, or visual conduct that is related to the individual's sex and has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.
- C. A harasser may be the victim's supervisor, an agent of the employer, a supervisory employee who does not directly supervise the victim, a non-supervisory employee (coworker), or in some circumstances, even a non-employee.
- D. The victim does not have to be the person at whom the unwelcome conduct is directed. It can also be someone who is offended by such conduct when it is directed toward another person. For example, the harassment or sexual harassment of a female (or male) employee may create an intimidating,

hostile, or offensive working environment for another female (or male) coworker or unreasonably interfere with the coworker's work performance.

IV. INTERNAL REPORTING PROCEDURES

- A. In the event employees or applicants for employment believe that they have been or are being victimized as the result of discrimination, harassment, or sexual harassment, they may use the complaint procedures contained in this document, or if the alleged act(s) of discrimination, harassment, or sexual harassment is related to a decision(s) made by a supervisor or administrator, the employee may use the appeal procedures contained in CCSD Regulation 4313.
- B. Applicants or employees who allege discrimination because of a disability under the provisions of the Americans with Disabilities Act of 1990, or who allege that they require a reasonable accommodation, must make their situation known to their appropriate supervising administrator, the ADA Coordinator for the District (Executive Director, Diversity and Affirmative Action Programs) or the Human Resources Division.
- C. Although District employees and applicants are encouraged to avail themselves of this procedure, it is understood they may, at any time during the process or at its completion, seek relief in accordance with the provisions of applicable federal or state statutes.

V. VERBAL COMPLAINT

- A. In lodging a verbal complaint, the aggrieved person shall orally present the complaint to his or her immediate supervisor, or if that person is the alleged perpetrator, to the next administrator in line of authority, or to the Executive Manager, Diversity and Affirmation Action Programs. The complaint should be made within a reasonable period of time following the occurrence of the alleged unlawful conduct on which the complaint is based. The complainant shall orally define the nature of the complaint, provide particulars such as names, dates, and a detailed description of the alleged conduct, and state the action desired for resolution.

VI. WRITTEN COMPLAINT

- A. All employees or applicants for employment who have complaints regarding alleged discrimination, harassment, or sexual harassment, shall be encouraged to file written complaints with their immediate supervisor or next administrator in line or with the Executive Manager, Diversity and Affirmative Action Programs.

- B. The written complaint should be made within a reasonable period of time following the occurrence of the alleged unlawful conduct. It shall be detailed and shall include the following:
1. A description of the events in question and the date(s) of the occurrence(s).
 2. The name(s) of the individual(s) involved, including persons responsible and witnesses.
 3. The specific alleged unlawful acts which were perpetrated against the complainant and any school district policies or practices which were violated.
 4. The desired action for resolution.
 5. The complainant shall sign and date the written complaint.

VII. INTERNAL INVESTIGATIVE PROCEDURES

- A. In the event an employee or applicant for employment has lodged a complaint regarding alleged discrimination, harassment, or sexual harassment, the complaint shall be handled in the following manner:
1. As soon as possible after receiving an oral or written complaint, the supervising administrator will notify the Executive Manager, Diversity and Affirmative Action Programs, or vice versa if the complainant first provides the oral or written complaint to the Executive Manager, Diversity and Affirmative Action Programs. The Executive Manager, Diversity and Affirmative Action Programs and the supervising administrator will determine who will conduct the investigation.
 2. The Executive Manager, Diversity and Affirmative Action Programs or the supervising administrator shall investigate the allegations made by the complainant. The investigator shall, at a minimum, accomplish the following:
 - a. Review all statements, evidence, and documents currently available in order to become acquainted with the facts of the complaint and to help plan the investigation.
 - b. Determine the scope of the inquiry.
 - c. Open and organize an investigative file.

- d. Determine potential witnesses and evidence to gather, if any.
 - e. Determine additional or clarifying information needed, if any.
 - f. Conduct interviews as necessary.
 - g. Gather supporting documentation and evidence as necessary.
 - h. Analyze the evidence.
- 3. Following the investigation, the Executive Manager, Diversity and Affirmative Action Programs or supervising administrator shall make a determination as to whether the complaint is, in whole or in part, justified or unjustified.
 - 4. If the investigation was conducted by the Executive Manager, Diversity and Affirmative Action Programs, the Manager shall submit a written and/or oral report of his or her findings to the supervising administrator with a written and/or oral recommendation for resolution. The supervising administrator shall take into account the recommendation of the Executive Manager, Diversity and Affirmative Action Programs, and shall take appropriate action.
 - 5. If the investigation was conducted by the supervising administrator, the administrator, after consultation with the Executive Manager, Diversity and Affirmative Action Programs, shall determine the resolution and take appropriate action.
- VIII. Employees or applicants who allege discrimination or harassment will not be penalized as a result of their allegations in future consideration for recruitment, hiring, transfer, promotion, and other terms and conditions of employment, and no potential employer will be informed that an employee has filed previous discrimination complaints.
- IX. In determining whether the conduct at issue in the alleged complaint constitutes discrimination or harassment, the District will look at the record as a whole and at the totality of the evidence collected. A determination and remedy, if appropriate, will be based on the facts, on a case-by-case basis. Employees found to have engaged in inappropriate conduct will receive discipline up to and including termination.
- X. All information gathered by the District in the course of its investigation of an alleged unlawful discriminatory practice will remain confidential except to the extent necessary to conduct an investigation, resolve the complaint, serve other significant needs, or comply with law.

XI. EXTERNAL COMPLAINT PROCEDURES

- A. An employee or applicant who believes he or she has suffered discrimination, harassment, or sexual harassment may seek relief through external agency or court proceedings.
- B. Individuals who wish to file an external complaint should consult the relevant local, state, or federal agency for information concerning filing periods and requirements and/or seek legal assistance as necessary.
- C. The Executive Manager, Diversity and Affirmative Action Programs may determine that it is unnecessary to investigate an internal complaint if any county, state, or federal administrative office, which has jurisdiction to adjudicate complaints of discriminatory practices, has previously made a decision upon the complainant's complaint based upon the same facts and legal theory.

Review Responsibility:	Human Resources and Executive Manager, Diversity and Affirmative Action Programs
Adopted:	[4110; 8-14-90]
Revised:	(10-26-93)
Pol Gov Rev:	6/28/01
Revised:	4/12/12

CLARK COUNTY SCHOOL DISTRICT REGULATION

4311

AVAILABILITY OF PERSONNEL RECORDS: ALL EMPLOYEES

- I. All personnel information regarding district employees is confidential and may be reviewed only on a need-to-know basis.
 - A. A request with reasonable notice shall be made to the Human Resources Division by an employee who desires to review material in the employee's personnel file. The contents of the file, excluding that information provided on a confidential basis, may then be reviewed by the employee in the presence of a designated representative of the Human Resources Division.
 - B. Additionally, the personnel record maintained at the employee's work location shall also be available for inspection. The employee shall give the principal or immediate administrative supervisor reasonable notification of the desire to examine the personnel record.
 - C. An additional copy of evaluations or other documents previously given to the employee from the employee's personnel file may be provided at reasonable cost. A written request for the additional copy must be made at least twenty-four (24) hours in advance.
 - D. Personnel files may not be removed from the Human Resources Division except as directed by the associate superintendent, Human Resources Division or as directed by the superintendent or his/her designee.
 - E. Personnel information maintained at the employee's work location:
 1. May not be removed except when the material is transferred directly to the employee's personnel file in the Human Resources Division or as directed by the superintendent or his/her designee.
 2. Shall be transferred directly to the Human Resources Division upon the resignation or approval of a long-term leave of absence of any employee.
 - F. The work location personnel folder of an employee who transfers from one work location to another work location shall be transferred to the new location by the principal or the responsible administrative supervisor.

4311 (page 2)

- G. Upon termination or separation from the district, a former employee will be allowed the opportunity to inspect employment records consistent with NRS 613.075.

Cross Reference:	Policy and Regulation 1212 Community Relations
Review Responsibility:	Human Resources Division
Adopted:	[4224:6/72;6/77 4514/4824:6/72; 8/76]
Revised:	(10/22/81); (10/26/93)
Pol Gov Rev:	6/28/01

RA659

CLARK COUNTY SCHOOL DISTRICT POLICY

INTRODUCTION TO POLICIES AND REGULATIONS

0101

The Board of School Trustees has adopted “policy governance” as its method of governing the Clark County School District. Under policy governance, the Board defines and demands educational results, delegates to the Superintendent the authority, with certain boundaries or executive limitations, to accomplish those goals, and then monitors the District’s progress to ensure that the ends are accomplished.

In this context, the purpose of these Policies and Regulations is to provide directions regarding the details of District operations. Policies are more general principles, while Regulations contain specific details and procedures. They are effective as of the indicated policy governance review date, which is the date that they are approved by the Board of School Trustees, and remain in effect until canceled or revised. They should be applied consistently and interpreted in a manner which facilitates the accomplishment of the educational ends, within the bounds of the law and executive limitations, as established by the Board of School Trustees.

The Superintendent delegates to appropriate deputy superintendents, assistant superintendents and regional superintendents the authority to make decisions consistent with these policies and regulations.

Questions regarding the interpretation of these Policies and Regulations, as well as recommendations for their improvement and clarification, should be referred to the administrative division identified as having review responsibility.

Review Responsibility:	Superintendent
Adopted:	[8/1/66]
Revised:	(10/26/71;4/1/82)
Pol Gov Rev:	0101:6/28/01

RA660

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL
DISTRICT

Appellant,

vs.

THE LAS VEGAS REVIEW-
JOURNAL,

Respondent.

CASE NO.: 73525

RESPONDENT'S APPENDIX – VOLUME III

Appeal from Eighth Judicial District Court, Clark County

The Honorable Timothy C. Williams, District Judge

District Court Case No. A-17-750151-W

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLECHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for The Las Vegas Review-Journal

INDEX TO RESPONDENT'S APPENDIX

<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES</u>
IV	Clark County School District Policy 0101	01/18/2018	RA660
IV	Clark County School District Regulation 1212	01/18/2018	RA651
IV	Clark County School District Regulation 4110	01/18/2018	RA652-RA657
IV	Clark County School District Regulation 4311	01/18/2018	RA658-RA659
II	Exhibits A – E, J, L – CC to Petitioner's Opening Brief in Support of Amended Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus	03/29/2017	RA120-RA311
IV	Exhibits 4 and 5 to Errata to Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs	09/20/2017	RA447-RA647
I	Exhibits 16 – 25 to Amended Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus – Expedited Matter Pursuant to Nev. Rev. Stat. § 239.011	03/01/2017	RA083-RA119
I	Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus – Expedited Matter Pursuant to Nev. Rev. Stat. § 239.011	01/26/2017	RA001-RA040
III	Reporter's Transcript of Hearing: Search Parameters	05/09/2017	RA312-RA446
I	Reporter's Transcript of Hearing: Writ of Mandate	02/14/2017	RA041-RA082
IV	Register of Actions	01/17/2018	RA648-RA650

CERTIFICATE OF SERVICE

I hereby certify that the foregoing RESPONDENT'S APPENDIX – VOLUME III was filed electronically with the Nevada Supreme Court on the 24th day of January, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
Counsel for Appellant,
Clark County School District

/s/ Pharan Burchfield

Employee of McLetchie Shell LLC

1 CASE NO. A-17-750151-W

2 DOCKET U

3 DEPT. 16

4

5

6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

* * * * *

9 LAS VEGAS REVIEW JOURNAL,)

10 Plaintiff,)

11 vs.)

12 CLARK COUNTY SCHOOL DISTRICT,)

13 Defendant.)

14 -----)

15 REPORTER'S TRANSCRIPT

16 OF

HEARING: SEARCH PARAMETERS

17

18 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

19 DISTRICT COURT JUDGE

20

21 DATED TUESDAY, MAY 9, 2017

22

23

24 REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

25

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 MCLEATCHIE SHELL LLC
4 BY: MARGARET MCLEATCHIE, ESQ.
5 701 E. BRIDGER AVE.
6 SUITE 520
7 LAS VEGAS, NV 89101
8 (702) 728-5300
9 (702) 425-8220 Fax
10 MAGGIE@NVLITIGATION.COM

11 FOR THE DEFENDANT:

12 OFFICE OF THE GENERAL COUNSEL
13 CLARK COUNTY SCHOOL DISTRICT
14 BY: ADAM D. HONEY, ESQ.
15 5100 WEST SAHARA AVENUE
16 LAS VEGAS, NV 89146
17 (702) 799-5373
18 AHONEY@INTERACT.CCSD.NET

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1 LAS VEGAS, NEVADA; TUESDAY, MAY 9, 2017

2 9:11 A.M.

3 P R O C E E D I N G S

4 * * * * *

09:01:06 5

6 THE COURT: Okay. We're going to move on to
7 the contested calendar. Next up page 9. Las Vegas
8 Review Journal versus Clark County School District.

09:12:05 10

9 MR. HONEY: Good morning. Adam Honey for
10 Clark County School District.

11 MS. McLETCHE: Good morning, your Honor.
12 Maggie McLetchie for Las Vegas Review Journal.

09:12:22 15

13 THE COURT: All right. Good morning to
14 everyone. And let's see here. And this is a hearing
15 regarding search parameters, is that correct, ma'am?

09:12:37 20

16 MS. McLETCHE: It's a little bit broader than
17 that, your Honor. The legal issues that we have to
18 address today are whether the Court has jurisdiction
19 over the amended petition. Secondly, whether CCSD
20 improperly limited responsive documents by limiting the
21 searches. But more importantly, the sources it was
22 searching.

09:12:53 25

23 And then, finally, whether or not the
24 documents that CCSD is acknowledging it's withholding
25 merit protection, your Honor.

09:12:54 1 THE COURT: All right. You have the floor,
2 ma'am.

3 MS. McLETCHE: Thank you, your Honor. Your
4 Honor, first in this matter, CCSD delayed. Then they
09:13:02 5 played a game of hide the ball by refusing to tell the
6 RJ how and where it was conducting searches. And now,
7 as a final effort to avoid producing all responsive
8 public records the RJ has asked for, it argues that
9 this Court has no jurisdiction. This Court does have
09:13:17 10 jurisdiction, your Honor.

11 First, the February request was a follow up to
12 the December request. The Review Journal suspected
13 what ended up being true that CCSD was not performing
14 full searches of all appropriate sources. And in many
09:13:33 15 aspects, the February request that was issued
16 overlapped with the December request.

17 Second, your Honor, CCSD delayed providing
18 responsive records and telling the Review Journal
19 whether or not it was withholding records and how it
09:13:49 20 was conducting searches. Now, it's relying on its own
21 delay to argue no jurisdiction.

22 Third, your Honor, in responding to the
23 February request, CCSD did not comply with
24 NRS 239.0107. With regard to productions of documents,
09:14:06 25 it said, we anticipate a further response. But a

09:14:10 1 further response is not the same as what subsection C
2 of 239.0107 requires, which is a date certain for
3 production, your Honor.

09:14:25 4 And, your Honor, the CCSD, in its initial
5 response for the February 10th letter, did assert
6 privileges indicating it was going to withhold
7 documents. Indeed, it subsequently produced a
8 privilege log indicating it has withheld documents.

09:14:42 9 Further, as it turns out, while CCSD never
10 provided the Review Journal notice until probably --
11 ten may be an underestimate on my part -- ten requests
12 for information from myself. While CCSD never provided
13 notice until March 13th, 2017, it was also withholding
14 records because it was secretly limiting the sources it
09:15:02 15 was searching for responsive records to both the
16 February request and to the December request.

17 Your Honor, while CCSD has been playing hide
18 the ball in this way, it was always clear that there
19 was a live dispute between the parties when the RJ
09:15:17 20 amended its petition, and it is clear now.

21 Further, judicial efficiency, obviously,
22 argues in favor of this Court having jurisdiction. Its
23 argument would allow public entities to delay
24 meaningfully responding to public records requests to
09:15:33 25 avoid judicial review. This is inconsistent with the

09:15:37 1 expedited treatment of NPRA matters, which is required
2 by law in the Nevada Public Records Act, your Honor.

3 I just want to make clear at this stage
4 because CCSD has produced some additional documents. I
09:15:50 5 want to make clear that while there's a long history
6 here, mostly involving me and the RJ trying to get
7 documents and information, what we're asking for today
8 is actually relatively straightforward. First, we're
9 asking that CCSD produce documents consistent with the
09:16:06 10 approach set forth in the February order.

11 While CCSD claims that the order isn't
12 applicable to the outstanding issues in this case, it
13 is for two reasons. The first, the February request,
14 like I said, is in many aspects duplicative of the
09:16:22 15 December request, which it turns out, again, CCSD also
16 limited its searches for responsive documents in
17 response to.

18 Second, while CCSD waived claims of
19 confidentiality with regard to the December request,
09:16:34 20 this Court did still consider claims of confidentiality
21 and properly and appropriately balanced disclosures
22 with confidentiality and properly applied the Nevada
23 Public Records law.

24 To be clear, the Review Journal, while it
09:16:51 25 broadly asked for documents, all records, all emails,

09:16:55 1 all records, and all emails in hard copy and electronic
2 form, and broadly sought records, today we're not
3 seeking all emails or all hard copy records responsive
4 to the December or February requests. In an effort to
09:17:11 5 limit disputes, this is what the RJ is currently
6 seeking:

7 It is asking that CCSD conduct additional
8 searches of emails including principals, not just those
9 in District D. Trustee Child's misbehavior and alleged
09:17:27 10 wrongdoing was widespread and not necessarily limited
11 to those schools in his district.

12 The other emails that we want to be searched
13 are those of Cedric Cole and other diversity and
14 affirmative action program staff. CCSD has never
09:17:42 15 searched either the hard copy or electronic documents
16 of the diversity program staff.

17 With regard to hard copies, what we're asking
18 for -- and, again, according to their March 13th
19 letter, no searches for hard copies were ever
09:17:58 20 performed. We're asking for hard copy records from
21 diversity and action, the diversity and affirmative
22 action programs, and any hard copy file that may exist
23 on Trustee Child.

24 Again, we're shooting in the dark because they
09:18:11 25 unilaterally limited how they searched. We don't know

09:18:14 1 what they're actually -- what's actually not being
2 produced.

3 At this stage, we'd also request that CCSD
4 provide a certificate from the custodian of records.

09:18:23 5 THE COURT: Well, you know, I actually thought
6 about this. And I think it's important to make a
7 couple of points on the record. No. 1, if you look at
8 the statutory scheme as far as the application of the
9 public records in general, the legislature spoke. And
09:18:40 10 they felt that this chapter should be liberally
11 construed. No. 1.

12 MS. McLETCHE: Correct, your Honor.

13 THE COURT: Secondly, and this is a very, very
14 important issue because I thought about this yesterday.
09:18:50 15 I was just looking for this exact provision from the
16 NRS. But it's important to point out, and this
17 actually goes to the jurisdictional issue in my
18 opinion, because the average member of our public that
19 might make a records request typically doesn't have the
09:19:14 20 ability to hire a lawyer. And just as important, too,
21 they are -- they might not be sophisticated. They
22 don't conduct discovery. They might have a fairly
23 general request to make.

24 And so one of the issues that jumped out at me
09:19:31 25 as far as the provision is concerned, if you take a

09:19:33 1 look at NRS 239.0107(2), it says:

2 The provisions of this section must not be
3 construed to prohibit an oral request to
4 inspect or copy a public book or record.

09:19:47 5 And the reason why that's important, and I
6 think the legislature contemplated that, you know what,
7 the average citizen should be able to make a request
8 because we have transparency in government, which is an
9 important issue. It really and truly is.

09:20:02 10 Because we can't overlook the fact that
11 whether you're a district court judge, or you're an
12 administrator for the Clark County School District,
13 you're a public servant and employee; right? You are.

14 And so that's an important issue, I think.

09:20:17 15 And so they understand that you don't have to be
16 sophisticated and able to hire counsel. You should be
17 able to make a request.

18 Secondly, and this is something you touched
19 on, but I think it's actually more important because I
09:20:30 20 read the entire record in this case. And I think
21 Mr. Honey indicated that he's not the decision maker;
22 right? And I get that. And I respect that. But we
23 need to know who the decision maker is. Who's making
24 these decisions.

09:20:42 25 And the reason for it is, I don't want to get

09:20:44 1 to the point where you have to do this, but if my
2 orders aren't being complied with, pursuant to the
3 statutory scheme, I have to make some tough calls;
4 right? I do.

09:20:54 5 And the reason why I want to point everybody
6 to NRS 239.012. And that's immunity for good faith
7 disclosures or refusal to disclose information. Now,
8 in order for me to determine whether or not there's a
9 good-faith failure to disclose or refusal to disclose,

09:21:13 10 I need to know, No. 1, who's making the decision;
11 right? You can't just say, I'm not the decision maker
12 on this. Somebody -- the rubber meets the road with
13 somebody.

14 Somebody is making the decision, Mr. Honey. I
09:21:24 15 know it's not you. That's what you said, right? And
16 that's okay. I'm not going to throw you under the bus
17 at all. Trust me, sir. But somebody is making the
18 decision, right? Is it the superintendent? Is it the
19 assistant superintendent? Is it an administrator?
09:21:36 20 Who's making the decision? I need to know that.

21 And the reason for it is, and this is
22 specifically set forth in the statute. It says:

23 A public officer or employee who acts in
24 good faith in disclosing or refusing to
09:21:50 25 disclose information and the employer of the

09:21:54 1 public officer or employee, they're immune from
2 liability for damages either to the requester
3 or to the person to whom the information
4 concerns.

09:22:04 5 So that tells me there's a good-faith
6 requirement to do this, to produce the information.

7 Now, and there's immunity as a result of the
8 good-faith; right? But what if the Court -- what if I
9 decide that, you know what, these documents are not
09:22:19 10 being produced in good faith. Right? Then if I make
11 that factual determination under the statutory scheme,
12 that person can be essentially assessed monetary
13 damages, right, under the statute.

14 MS. McLEITCHIE: Correct, your Honor. And just
09:22:37 15 to be clear, that's a separate provision from the
16 provision that deals with fees and costs.

17 THE COURT: Right.

18 MS. McLEITCHIE: So that is a separate issue.

19 THE COURT: Right. It's a separate issue.

09:22:45 20 MS. McLEITCHIE: Yes. Absolutely.

21 THE COURT: So I need to know who the decision
22 maker is because I think once we find out who the
23 decision maker is, I think it might change things a
24 little bit.

09:22:54 25 Now, you said, Well, Judge, we need to have a

09:22:56 1 custodian of records. I don't necessarily think that's
2 what we need. I think we need to have someone
3 designated as a managing-speaking agent on behalf of
4 the school district. That individual who is making the
09:23:06 5 decision. Right?

6 Because it's easy to say, Look, I'm not making
7 the decision. And I believe Mr. Honey. I mean, he's
8 the lawyer. I have no problem with that. But somebody
9 is. And I need to know that, you know. And so I'm
09:23:22 10 looking at it from that perspective.

11 From a jurisdictional perspective -- and
12 understand, this whole statutory scheme is to be
13 broadly applied, right? And so that tells me I have
14 jurisdiction regarding the essence of what the initial
09:23:37 15 complaint was or the initial request.

16 And I read the letter. I guess, it goes back
17 to the December 5, 2016, initial letter or request.
18 And the reason why I bring that up is essentially this:
19 It's my recollection that that letter was -- and let me
09:23:58 20 see if I can find it real quick. That was, I think,
21 Exhibit G.

22 MR. HONEY: Yes, your Honor.

23 THE COURT: And let me see if I can find that.
24 I have this all tabbed. Let me --

09:24:09 25 MS. McLETCHE: There are a lot of exhibits,

09:24:11 1 your Honor.

2 THE COURT: Yeah. Let me see if I can find
3 your Exhibit G.

4 MS. McLEITCHIE: Are you looking for the
09:24:15 5 December requests?

6 MR. HONEY: Yes.

7 THE COURT: Yes.

8 MR. HONEY: Petitioner's opening brief,
9 Exhibit G.

09:24:20 10 THE COURT: Yeah. Let me see if I have it.
11 And then it was Exhibit G was followed up with a
12 supplementation, like, four days later.

13 MS. McLEITCHIE: That was Exhibit H, your
14 Honor.

09:24:41 15 THE COURT: Right.

16 MS. McLEITCHIE: Right.

17 THE COURT: And so, in essence, you know, if I
18 look at the request, and you have to -- and the reason
19 why I think it's important to really point this out,
09:24:52 20 because the statute says this is to be broadly
21 construed, right? It really and truly is a request.

22 And No. 2, I think the statutory scheme
23 contemplates it's not -- you know, this shouldn't be
24 done by lawyers. Members of the public could make the
09:25:08 25 request. I understand that reporters -- and I think

09:25:10 1 this was the educational reporter for the RJ, it's not
2 a lawyer. I get that. They just want information.

3 And so I look at the request and thrust of the
4 request for essentially this on December 5th: All
09:25:22 5 incident reports filed by the Clark County School
6 District staff and Clark County police, or any Clark
7 County School District officials that involve grief
8 counselors and Trustee Kevin Childs.

9 Secondly, all emails from the Clark County
09:25:40 10 School District's staff, Clark County School District
11 police, or Clark County officials regarding school
12 visits conducted by Kevin Childs.

13 The next was, All emails and correspondence
14 relating to the guidelines issued to Clark County
09:26:01 15 School District staff on December 5th, 2016, regarding
16 Trustee Kevin Child's visits to schools and interaction
17 with staff. Okay. That's pretty broad. It really is.
18 And that can encompass a lot. But I think the thrust
19 of it was really focusing on the actions of Mr. Childs
09:26:20 20 at the Clark County School District.

21 And then, further, it was just followed up
22 four days later: Any written complaints the Clark
23 County School District has received regarding Trustee
24 Kevin Childs. And that's pretty broad.

09:26:33 25 And the way I interpret the subsequent

09:26:37 1 requests were just a narrowing the focus on that broad
2 initial request as it relates to Mr. Childs. That's
3 how I see that.

4 MS. McLEITCHIE: That's correct, your Honor.

09:26:48 5 And I think there were also -- I'm not sure if you
6 mentioned it, but there was also in the original
7 request, there was also emails and correspondence.

8 THE COURT: Correct.

9 MS. McLEITCHIE: Regarding guidelines issued to
09:26:55 10 the CCSD staff on December 5th. They were trying to
11 figure out why this all happened. Why did it come
12 about that Trustee Child was kicked off school.

13 THE COURT: Now, this is important to point
14 out. And understand this, and I think this is also
09:27:10 15 contemplated in the statutory scheme when you take a
16 look at the Reno Newspaper Inc. versus Gibbons case,
17 right? And so that case reversed a trial judge who
18 denied a request as to a writ of mandamus seeking
19 access to emails between a former governor and ten
09:27:35 20 individuals, or in the alternative receive a detailed
21 log, right?

22 And so, once again, we're kind of getting to
23 the issue as it relates to how do you respond to these
24 requests? And either you produce the documents and
09:27:51 25 that's one avenue. You produce everything. But if you

09:27:54 1 have legitimate concerns of whether specific documents
2 might be privileged, it's incumbent upon the school
3 district to log each one, identify the document, and
4 assert the basis for the privilege.

09:28:09 5 And when that happens, I can say, you know
6 what, it appears that the governmental entity, even if
7 they assert a privilege that might not have merit,
8 that's okay. Because I'll make that call whether it
9 has merit or not. But you got to comply. Right?

09:28:27 10 MS. McLEITCHIE: And you have to give the
11 requester enough information so they can ascertain -- a
12 log isn't necessarily required prelitigation, but you
13 still have to provide specific authority --

14 THE COURT: Yeah.

09:28:37 15 MS. McLEITCHIE: -- detailing which records
16 you're withholding and why. And the whole point is so
17 that the requester isn't in the dark, which we were
18 until March 13th, your Honor, about the fact that they
19 had decided, even though, as you said, the Public
09:28:50 20 Records Act is to be interpreted broadly, Ms.-- the
21 reporter's requests were very broad, as you say. And
22 the Nevada Public Records Act clearly says:

23 All public books and public records of a
24 governmental entity must be open at all times
09:29:03 25 during office hours to inspection by any person

09:29:06 1 and may be fully copied or an abstract or
2 memorandum may be prepared from those public
3 books and records.

4 All public books and records. Nowhere does it
09:29:14 5 say, your Honor, that a public entity needs to just do
6 what it determines, and CCSD has called, a good-faith
7 effort to locate the sources it thinks are most likely
8 to provide responsive documents.

9 The Review Journal is entitled to all the
09:29:29 10 records it requests unless CCSD establishes by a
11 preponderance of the evidence, your Honor --

12 THE COURT: I understand.

13 MS. McLEITCHIE: -- that the documents are
14 confidential, and that that interest outweighs the
09:29:40 15 interest in disclosure.

16 I'm sorry, your Honor.

17 THE COURT: No, I understand. I do.

18 MS. McLEITCHIE: So, your Honor, with regard to
19 the good-faith issue, I did want to point out, and the
09:29:51 20 certificate from the custodian of records, there are
21 two issues there. Mr. Honey was saying he wasn't the
22 decision maker. I've contacted Mr. McDade, and his
23 office would tell me, contact Mr. Honey. So I was
24 getting this sort of scarecrow, Talk to this person;
09:30:03 25 talk to that person.

09:30:05 1 And I think Mr. Honey has also indicated that
2 he didn't personally work on the searches. I don't
3 know if it was the IT department or the public
4 information office.

09:30:14 5 He's also contended that their email server
6 has limits and that you have to search the entire --
7 you can't search the entire email server database. We
8 don't have evidence that that's the case. We have
9 limited our requests, as I earlier discussed, in order
09:30:30 10 to address their purported limits of their server.

11 But I will say, your Honor, a public entity
12 should organize its information consistent with its
13 duties and obligations under the Public Records Act.
14 And it should not set up a server so you can't search
09:30:47 15 emails very easily, and you have to go into each
16 custodian. So I think that's an also -- that's also an
17 issue here.

18 And, your Honor, with regard to the good-faith
19 issue, I'll also -- I will also say --

09:30:57 20 THE COURT: See, one of the things I can't do,
21 I can't order the school district as to how they should
22 set up their IT department. I mean, that's going
23 beyond the scope of what I'm here for.

24 MR. HONEY: You can't order the legislature to
09:31:08 25 give us money to have an adequate IT department?

09:31:10 1 THE COURT: Yeah.

2 MR. HONEY: Okay.

3 THE COURT: Yeah. I mean, I can't do that.

4 MR. HONEY: Understandably.

09:31:13 5 MS. McLETCHE: Your Honor, I understand. But

6 throughout this litigation, frankly, I've been shooting

7 in the dark trying to go figure out where they searched

8 and how. And I think some actual evidence about -- an

9 actual document explaining these are -- this is what we

09:31:27 10 searched, and this is how we searched, and this is why

11 we couldn't search all the email database would be

12 appropriate at this juncture.

13 With regard to the limit of production of

14 responsive documents that we've been talking about a

09:31:40 15 little bit, I will point out that, your Honor, weekly,

16 if not more frequently, I talk to public entities about

17 public records requests. Many times I get on the call

18 with either the public information officer or the

19 attorney for the agency and their IT department. And

09:31:56 20 we're able to collaboratively work on two things.

21 First, where do you store your information? And how do

22 we make this easy for you to search for what we're

23 looking for? And second, how should we craft our

24 searches.

09:32:08 25 CCSD has taken the position that it never --

09:32:11 1 not only that it didn't have to give me that
2 information, but that can it could, essentially,
3 secretly withhold records by not providing information
4 about how it was limiting searches, your Honor.

09:32:23 5 With regard to the issues about meriting
6 protection, the briefing is extensive. Your Honor has
7 read the case law and the Chapter 239 extensively. The
8 Gibbons case that you mentioned, obviously, it starts
9 with a presumption. And CCSD's burden isn't just to

09:32:43 10 come up with hypothetical concerns or to give me a
11 five -- a letter within five days listing some
12 boilerplate confidentiality claims. It's to come
13 forward with a preponderance of the evidence to
14 establish: First, that there's a valid claim of
09:32:58 15 confidentiality; and second, even if there's a valid
16 claim of confidentiality, they're not done.

17 They have to establish that that interest in
18 that confidentiality is -- that outweighs the heavy
19 presumption in favor of access. They haven't done that
09:33:14 20 here, your Honor.

21 The public interest in disclosure is great.
22 There's wide-ranging concerns with Trustee Child's
23 behavior. One of those concerns, as CCSD has itself
24 conceded, is his sexual harassment of employees and
09:33:29 25 inappropriate sexual behavior. This is a systemic

09:33:31 1 concern with regard to CCSD from janitors to teachers,
2 and now a trustee. Everyday that I open the newspaper,
3 it seems that the reports of sexual harassment and
4 abuse at CCSD only grow. And they raise grave
09:33:45 5 concerns.

6 The public has a right to evaluate what
7 Trustee Child did and how CCSD handled it. Public
8 access is especially important in this case. I cited a
9 case from California that dealt with sexual harassment
09:33:59 10 by a teacher. But we're talking about a trustee, so
11 the interest in this case is especially great. First,
12 parents entrust their kids to a school district. They
13 have the right to know how their kids are being kept
14 safe.

09:34:11 15 Further, Title 7 is a federal law that
16 furthers a broad public policy, the right of employees
17 to be free from illegal discrimination and harassment.
18 The public has a right to evaluate CCSD's compliance
19 with Title 7. They want to keep their Title 7 process
09:34:27 20 in a black box, and that does not promote the interests
21 behind Title 7.

22 THE COURT: Does Title 7 -- I mean, because
23 this is a very unique case because, typically, you see
24 Title 7 cases involving employees; right?

09:34:40 25 MS. McLETCHE: Correct, your Honor.

09:34:41 1 THE COURT: And so Trustee Child is not an
2 employee of the Clark County School District, right?

3 MS. McLEITCHIE: That is correct, your Honor.

4 THE COURT: So how does -- what application,
09:34:51 5 if any, does it have to this case? Because I was
6 thinking about your discussion. And it's my
7 recollection there was an investigation done by
8 diversity; is that correct?

9 MS. McLEITCHIE: That is correct, your Honor.

09:35:00 10 THE COURT: Okay. And that -- is that still
11 an issue as far as that report is concerned?

12 MS. McLEITCHIE: Yes, your Honor. Not only do
13 we want a full copy of the report and accompanying
14 notes, we want a full search of the diversity
09:35:10 15 department's emails and hard copy files about Kevin
16 Child and about this matter.

17 But with regard to Title 7, you can sometimes
18 be liable for -- an employer can sometimes be liable
19 for the actions of -- they are strictly liable for the
09:35:26 20 actions of a supervisor. Whether or not Trustee Child
21 would fall into that category, I'm not sure. But you
22 can even be responsible for subjecting your employees
23 to a hostile work environment.

24 THE COURT: No. I understand that as far as
09:35:38 25 potential liability. But I'm talking about any

09:35:40 1 privileges as far as the investigation is concerned
2 because he's not an employee. He's a --

3 MS. McLEITCHIE: That -- I understand. Thank
4 you for that clarification, your Honor.

09:35:48 5 Yes. They cite -- CCSD cites personnel
6 records as a reason to withhold some of these records.
7 And even if you were an employee, I don't think that
8 those -- that those -- the internal guidance, for
9 example, the internal policy would trump the Public
09:36:03 10 Records Act.

11 But more --

12 THE COURT: I think there's always
13 protections. I can redact certain issues like name and
14 so on; right?

09:36:11 15 MS. McLEITCHIE: Absolutely, your Honor. And
16 Kevin Child, as you point out, he's not an employee
17 entitled to any of the protections that employees are
18 entitled to with respect to some, but not all,
19 personnel records.

09:36:25 20 And, your Honor, they rely on some EEOC
21 guidelines that really have nothing to do with this
22 case. Those guidelines -- they're under the Burlington
23 Faragher --

24 (Court Reporter interrupts)

09:36:39 25 THE COURT: Slow down.

09:36:39 1 MS. McLETCHE: Burlington Faragher,
2 F-A-R-A-G-H-E-R. Thank you.

3 Under that line of cases and under EEOC
4 guidelines, employers do have a duty to prevent and
09:36:54 5 address sexual harassment. But the guidelines that
6 they rely on aren't talking about stamping those
7 documents with finality with a seal that says never to
8 be produced to anybody for any reason under any
9 circumstances.

09:37:07 10 What they rely on is really about, while
11 you're conducting an investigation -- and this
12 investigation is over by all accounts. While you're
13 conducting an investigation, your Honor, you are not
14 supposed to -- for obvious reasons, you're not supposed
09:37:23 15 to discuss the fact of the investigation, and you're
16 supposed to keep the interviews confidential.

17 Now, at the end of an investigation, employers
18 are actually encouraged to announce the outcome of
19 their investigation. But the guidelines that they're
09:37:36 20 relying on don't place any kind of blanket
21 confidentiality. I've never seen, for example, in
22 Title 7 litigation anybody say, Well, our investigation
23 of this complaint is entirely -- should be filed under
24 seal and can never be seen by anybody in the public.

09:37:51 25 And I think we have to look at Title 7 and,

09:37:54 1 again, the policies that its designed to protect, which
2 is making sure that employers protect and -- protect
3 employees and prevent sexual harassment.

4 Here CCSD works for the public. The public
09:38:08 5 has a right to know what the school district did with
6 regard to Trustee Child. Furthermore, Trustee Child is
7 elected by the voters, and he works for them. They
8 have a right to know and evaluate his actions and the
9 actions of the CCSD officials who also work for the
09:38:23 10 public, your Honor.

11 Thank you.

12 THE COURT: All right.

13 Mr. Honey, sir.

14 MR. HONEY: Thank you, your Honor. The
09:38:30 15 December records request were fully dealt with by a
16 writ filed in January and heard before this Court on
17 February 14. Petitioner drafted approximately 6- or
18 8-page order that this Court entered in regards to
19 that.

09:38:48 20 The January writ and that order did not
21 address the February 10th records request for a
22 multitude of reasons. First of all, because in January
23 the February records request didn't exist. And on
24 February 14, the school district's initial 5-day period
09:39:05 25 to respond to the February 10th request, which was a

09:39:09 1 Friday, had not even passed.

2 Now, petitioner wants you to apply an order
3 that didn't even have the February 10th request as part
4 of it. It wasn't part of the consideration. It wasn't
09:39:27 5 part of the writ.

6 Furthermore, we have, in regards to the
7 February 10th request, asserted privileges, and we
8 asserted those privileges timely, unlike the original
9 request.

09:39:40 10 We came to the Court on February 14. We had a
11 very high burden to cross because we hadn't made timely
12 privileges in regard to the December request consistent
13 with Chapter 239. In regards to the February request,
14 we certainly have.

09:39:58 15 Now, throughout her -- throughout petitioner's
16 opening brief and reply, they keep talking about the
17 Cole report, the Cole report. The Cole report has been
18 improperly withheld. What they --

19 THE COURT: For the record, explain that
09:40:11 20 report. What is that?

21 MR. HONEY: The Cole report has been produced
22 by the petitioner, was the subject of a December 23
23 article, and, therefore, has been in their possession
24 since at least --

09:40:22 25 THE COURT: No. But, I mean, as far as the

09:40:25 1 Cole report, specifically what is that.

2 MR. HONEY: Yeah. I'm getting to that, your
3 Honor. Just trying to make my record.

4 THE COURT: All right.

09:40:30 5 MR. HONEY: Thank you. So they've been in
6 possession of this since at least December 23rd,
7 despite their arguments apparently contrary to that.

8 The Cole report is the final report and
9 recommendations. I think this is important because
09:40:43 10 this goes to the due -- this goes to the deliberative
11 process privilege, the recommendations from the Office
12 of Diversity and Affirmative Action to the
13 superintendent. Which then the superintendent based
14 his December, I'm going to say, 5th or 9th guidelines
09:41:01 15 memo for the visits of Trustee Child.

16 So when petitioner says we need to know what
17 the district did, they do know what we did. Our Office
18 of Diversity and Affirmative Action performed an
19 investigation, conducted interviews, came up with a
09:41:23 20 report, 4-page report with recommendations to the
21 superintendent. That the superintendent then used to
22 base his action of guidelines for Trustee Child's
23 visits.

24 These guidelines were sent to all of the
09:41:40 25 principals in Trustee Child's district, District D, and

09:41:46 1 other administrative personnel. That is -- I believe,
2 that is respondent's answering brief, Exhibit 9, the
3 guidelines, and it shows you exactly who all that went
4 to.

09:42:01 5 Now, that report talks about the alleged
6 conduct of Mr. Childs. I believe it has a conclusion
7 that his actions would be -- could be construed as in
8 violation of Title 7. It talks about how employees
9 characterized their interpretation of his behavior and
09:42:27 10 such.

11 That report, I didn't reproduce it. But I
12 believe it was maybe Exhibit E, if I remember right;
13 maybe F. It's Exhibit F. And that report is dated
14 October -- excuse me, October 19, 2016, to
09:42:53 15 superintendent, from Cedric Cole, executive manager,
16 Diversity and Affirmative Action Program/ADA
17 coordinator.

18 Now, at some point in -- I believe it was the
19 reply brief, they indicate that they didn't get the
09:43:06 20 full report. They have the full report. Okay. The
21 report ends with the recommendations.

22 The privilege log that we provided on or about
23 March 24 in regards to the February 10 request
24 indicates a 4-page report was withheld from Cedric Cole
09:43:23 25 to the superintendent. It's clearly this document.

09:43:29 1 THE COURT: And for the record, that's the
2 Clark County School District superintendent's Office of
3 Diversity and Affirmative Action, Clark County School
4 District, dated October 19, 2016, is that correct?

09:43:44 5 MR. HONEY: Correct. So those were the
6 recommendations provided to the superintendent, which
7 then ended up with his guidelines for the trustee's
8 visits.

9 Now, going back to the December 5th and
09:43:57 10 December 9th request. The December 5th request, All
11 incident reports filed by -- that involved grief
12 counselors and Trustee Kevin Child. That does not ask
13 for an investigative report from the Office of
14 Diversity and Affirmative Action. Certainly doesn't
09:44:17 15 ask for their investigative notes and any draft
16 memorandums as well, short of the final report already
17 in the petitioner's possession.

18 All emails from CC staff regarding school
19 visits conducted by Kevin Child. Again, does not
09:44:31 20 include investigative report, notes, memorandum,
21 whether draft or final. And then all emails and
22 correspondence relating to the guidelines issued to
23 CCSD staff on December 5. Again, this is not
24 investigative report, notes from the Office of
09:44:50 25 Diversity and Affirmative Action's executive director.

09:44:57 1 The follow up, I'd like to add to this request
2 any written complaints received regarding Trustee
3 Child. That's not notes. That's not investigative
4 report. That's not the memorandum that went to Trustee
09:45:09 5 Child.

6 Now, I'm not disputing that they did -- that
7 they didn't seek this in February 10. They did seek it
8 on February 10th. And I'm certainly not saying that
9 they aren't entitled to consider all the documents
09:45:22 10 they've received by December 10 and say, you know what,
11 there may be some things that we can reword or
12 additional documents we need to ask. And that's really
13 clear in their February 10th request. It's three pages
14 long, and they literally named documents the same way
09:45:37 15 they're named in the records previously produced. And
16 that's fine. For example, they want all the records
17 with regard to Kevin Child and the payback programs
18 because they received records from us in regards for
19 the payback program.

09:45:50 20 Okay. But that February 10th request is
21 entirely different. Now, in regards to the February
22 10th request, the statute says we have five days to
23 notify them.

24 THE COURT: And, Mr. Honey, understand this, I
09:46:02 25 realize the statute has specific timelines. I do

09:46:06 1 understand potentially it might be difficult to respond
2 within a time period.

3 MR. HONEY: Sure.

4 THE COURT: I realize there were attempts made
09:46:13 5 to at least talk and the like. At the end of the day,
6 and this is what -- this -- you have to understand what
7 my role is in this regard. I have to make a
8 determination: No. 1, have the specific documents
9 request for public records been complied with? And so
09:46:30 10 what's the best way for me to make that determination
11 as a trial judge? And the reason why I say that is
12 this, Why wouldn't a list of all documents produced
13 and, hypothetically, for its privileges, you know, just
14 like a traditional privilege log? Because that makes
09:46:52 15 my job a lot easier. And also as far as the specific
16 confidentiality, if there's issues regarding in camera
17 and the like, so I can take a look at it.

18 Because at the end of the day, this is how I
19 see it, Whether there is a privilege applicable to
09:47:14 20 certain documents or not, that ultimate decision is not
21 made by the school district. It's made by the trial
22 courts. Secondly, if the trial courts err in that
23 regard then, of course, there's an appeal. I mean, I
24 get that.

09:47:28 25 And so that's why I've proceeded somewhat

09:47:31 1 cautiously with this issue. But at the end of the day,
2 we have to get there. If you understand where I'm
3 going.

4 MR. HONEY: I understand. Okay. So the only
09:47:39 5 thing that we have withheld has been the investigative
6 report and the investigative materials from the Office
7 of Diversity and Affirmative Action. These claims that
8 somehow we've --

9 THE COURT: Now, my question is, Have I
09:47:52 10 overlooked that? Or have those been logged and
11 identified?

12 MR. HONEY: Correct. It's Exhibit E from the
13 petitioner's opening brief. It's in black bold. The
14 first page indicates six pages of internal draft.

09:48:12 15 THE COURT: Okay.

16 MR. HONEY: It has all the dates on it. Now,
17 it does say, Basis for withholding, see attached
18 correspondence dated March 13, 2017, for basis of
19 withholding. But we actually put our basis of
09:48:31 20 withholding the investigative materials in the
21 March 3rd letter.

22 Ms. McLetchie responded to our March 3rd
23 production on the same day by email wanting further
24 explanation of the withholdings of documents. I think
09:48:47 25 she asked for a privilege log at that time too.

09:48:49 1 We responded to that email on March 13th, and
2 then produced the privilege log. It does say
3 March 21st at the bottom, but if I believe right, it
4 was provided to Ms. McLetchie or petitioner, if you
09:49:01 5 will, on March 24th.

6 MS. McLETCHE: Hold on one second. Yes.
7 It's Exhibit Y to our opening brief. It was attached
8 on March 24th.

9 MR. HONEY: And that's the email?

09:49:17 10 MS. McLETCHE: Email attaching the log, I
11 believe.

12 THE COURT: And Exhibit Y and Exhibit I think
13 it's E, are those the same exhibits except for the
14 email?

09:49:36 15 MR. HONEY: If you'd like Ms. McLetchie and I
16 to approach the bench, I have Exhibit E here. We can
17 compare it. I'm not sure for Exhibit Y. Is that what
18 Exhibit E is?

19 THE COURT: It appears to be.

09:49:49 20 MR. HONEY: Does it have -- on the privilege
21 log portion, your Honor, does it have March 21, 2017,
22 at the bottom?

23 THE COURT: Yes.

24 MR. HONEY: Yes. Those are the same privilege
09:49:57 25 log. And that identifies what we withheld. This idea

09:50:01 1 that somehow we haven't provided a hard file on Kevin
2 Child, there is no hard file on Kevin Child. If
3 there's a hard file and we withheld it, it would be in
4 our privilege log. If the petitioner is aware of some
09:50:13 5 hard file that we aren't, we'd ask that she tell us
6 about it.

7 THE COURT: And we'll get back on the record.
8 It's my understanding Exhibit E to plaintiff's opening
9 brief is the privilege log that was produced in this
09:51:26 10 matter by the Clark County School District.

11 MR. HONEY: One of several. We supplemented
12 many times. That's why you see some highlighted. The
13 highlighted stuff is things that were supplemented
14 later.

09:51:34 15 THE COURT: Okay.

16 MR. HONEY: This was our --

17 MS. McLEITCHIE: This --

18 MR. HONEY: I think our last or most recent.

19 MS. McLEITCHIE: Mr. Honey, I don't want to
09:51:40 20 interrupt --

21 MR. HONEY: That's fine.

22 MS. McLEITCHIE: -- but just to be clear, the
23 prior logs were in response to the December request.
24 This bold -- these bold items are the -- in response
09:51:48 25 purportedly to the February request; correct?

09:51:50 1 MR. HONEY: Ms. McLetchie is absolutely
2 correct on that. That's a fair representation.
3 Accurate.

4 Now, in regards to our searches, petitioner
09:52:00 5 keeps asking to -- who we searched? How we searched?
6 Where we searched. There's nowhere in the statute that
7 that's provided for.

8 We have 350,000 students. We have over 40,000
9 employees. Our primary purpose is educating the
09:52:12 10 children of Clark County, Nevada. We have ten
11 attorneys for over 350 school campuses not including
12 all of our other administrative locations.

13 The searches that we've done in regards to the
14 records request, in addition to looking for any hard
09:52:39 15 files or documents that she's asked for, they've asked
16 for a lot of emails.

17 We believe we are in the best position to
18 determine which documents -- which persons or employees
19 need to be searched to logically find information in
09:52:56 20 regards to alleged misconduct of Trustee Child. To
21 that end, we have searched approximately 85 people
22 starting at the top of the organization, if you will.
23 We have searched all seven trustees.

24 THE COURT: Was that information given to the
09:53:15 25 petitioner, as far as all the searches?

09:53:18 1 MS. McLEITCHIE: Not in very clear form, your
2 Honor. So I'm taking notes.

3 MR. HONEY: Well, she asked for all the
4 trustee's emails, and we provided them. She knows she
09:53:26 5 has those. So I don't know if she can take notes on
6 that. She knows she's been provided -- If I can
7 continue on my pyramid down, the superintendent has
8 been searched.

9 The chief instruction officer of the district,
09:53:38 10 Mike Barton, has been searched.

11 In her March 21 letter that is not a records
12 request, she asked that we search all of the to's,
13 from's, and cc's from any document that had ever been
14 produced, whether it was relative to the December
09:53:55 15 records request or the February records request.

16 We did it for the February request because we
17 believe that's the only request at issue. The December
18 requests were and the records produced in regards to
19 those, was resolved when petitioner drafted,
09:54:09 20 executed -- the Court executed, and she filed with a
21 notice of entry of order, the order in regards to the
22 December request and the January writ. So she
23 identified 18 more people on the to's, from's, cc's for
24 February 10.

09:54:25 25 Twelve of them had already been searched. The

09:54:28 1 additional six included a couple of secretaries, and
2 additional administrative people, including people from
3 the instruction unit, which would be people that work
4 directly under Mike Barton, the chief instruction
09:54:41 5 officer, at our administrative offices, high ranking
6 officials.

7 We then searched or previously had searched
8 already all 17 school associate superintendents. These
9 superintendents are the direct bosses, the next chain
09:54:56 10 of command, for all the principals of the entire
11 district. Covers all of them. Not just District D but
12 the entire district.

13 If a principal were to receive a complaint, a
14 concern, an email, their chain of command is to
09:55:14 15 logically provide that to their direct superior, which
16 is the school assistant superintendents. Again, we
17 searched all 17 of those.

18 We then searched all 53 principals in Kevin
19 Child's district, District D, and provided records in
09:55:37 20 regards to those.

21 This comes up with a total of, I believe, 85
22 persons whose records have been searched in regards to
23 these emails. We believe these logically will lead to
24 any complaints, any concerns, in regards to the
09:55:55 25 trustee. We don't think we need to search all 40,000

09:55:58 1 employees. And, of course, I'll concede that
2 petitioner has not asked us to search 40,000 employees.
3 But for the first time on December 21, not in any
4 record request, not in any amended writ, but just by
09:56:14 5 correspondence she says, you know what, now, I want you
6 to also search all the principals in the whole district
7 wide. Just because I want you to. Because there might
8 be something in there.

9 I don't know if that -- I don't know if that
09:56:30 10 logically passes muster. She basically wants us to
11 quadruple the size of our prior searches with employees
12 that are at the low end of the totem pole, so to speak,
13 of what we've already searched. Meaning they're lower
14 level employers than the school associate
09:56:49 15 superintendents, the superintendent, the chief
16 instruction officer, and the trustees.

17 Now, so the idea then that we have withheld
18 documents since December I don't believe is accurate
19 given the record request that was provided to us in
09:57:20 20 December.

21 And I'm not quite sure why petitioner wants to
22 use the Court's time to argue over the Cole report when
23 they disclosed in their opening brief they've had it
24 since at least December 23rd. If they had any doubts
09:57:39 25 whether or not that was the full report, I don't know,

09:57:41 1 maybe they thought the recommendations on page 4 isn't
2 a logical conclusion to the report. That would have
3 been clarified when we gave them the privilege log,
4 Exhibit E, on March 24.

09:57:54 5 And they certainly never asked us, Hey, is
6 that the full Cole report? Which kind of leads us to
7 all their disingenuous offers to help, offers to
8 assist. There's never been a single substantive offer
9 to help.

09:58:10 10 I wrote that portion of my brief about how
11 disingenuous it was before I even got their opening
12 brief because I knew all of those silly emails were
13 going to end up in the brief.

14 We offered to help ten times, she told us
09:58:24 15 today. There was no offer to help. You don't
16 substantively tell us what you want, how you're going
17 to help.

18 A perfect example of this is, despite all of
19 these complaints of the searches we performed, the
09:58:40 20 March 21st letter asks us to search these three --
21 approximately 300 additional principals using the
22 search terms Kevin Child, Trustee Kevin Child. Those
23 are the search terms we used originally.

24 Now, in her reply brief she says no, no, no.
09:58:57 25 We never agreed that those were the same. But then in

09:59:00 1 her reply brief, she doesn't tell us what search terms
2 she wants us to use. So despite all these offers to
3 help, it's still apparently double secret probation of
4 what terms she actually wants us to use.

09:59:21 5 And their reply brief --

6 THE COURT: Here's my -- I have a question for
7 you because I don't understand what happens from an IT
8 perspective because I don't work for the school
9 district.

09:59:34 10 MR. HONEY: Sure. It's -- Let me tell you,
11 it's confusing, your Honor.

12 THE COURT: I understand. When I'm taking a
13 look, and I think this is from page 24 --

14 MR. HONEY: Of what document, your Honor?

09:59:46 15 THE COURT: Of the opening brief. And it's a
16 bullet at line 17.

17 MR. HONEY: Yes, sir.

18 THE COURT: Which provides all principals (not
19 just those in District D) --

10:00:05 20 MR. HONEY: So --

21 THE COURT: How do those -- how do you search
22 the principals? I'm just curious.

23 MR. HONEY: Yeah.

24 THE COURT: I have no idea.

10:00:11 25 MR. HONEY: Sure. So the IT department, as I

10:00:13 1 stated before, our technology is not particularly
2 advanced. We are -- you know, we're allotted money to
3 educate the students of the district, and we have to
4 spend it accordingly, as we see fit. We find it see
10:00:26 5 fit to try to keep class sizes down, something that we
6 aren't always successful at, and in order to employ
7 teachers to fill those classrooms. So IT, when they
8 search these, if it's two terms, such as Kevin Childs
9 and Trustee Childs, for every person they search, they
10:00:42 10 have to manually search each person. So one principal
11 is two searches.

12 THE COURT: So when you say manually, can they
13 search it from, I guess, the IT department?

14 MR. HONEY: Yes, yes. And what we -- what we
10:00:55 15 generally do, the head of our IT department conducts
16 the search. And the reason we do that is we don't want
17 to lay something off as important as a response to a
18 records request on lower level employees. We want to
19 have the expert of the IT department conduct these
10:01:12 20 searches.

21 Now, I do think in setting -- I do think in
22 setting these up, I do think that they can -- and I
23 just learned this recently. They can spend several
24 hours setting a search up, and then it runs. But then
10:01:30 25 they have to monitor the run. So in full disclosure,

10:01:34 1 if you were to order us today to search the 300
2 additional principles, kind of as a way of getting to
3 the end of this, that would proximately take, I think,
4 eight to ten hours of the head of our IT department.

10:01:51 5 THE COURT: And primarily, that would be
6 because they have to monitor the search?

7 MR. HONEY: Correct. Oh, and also too, is
8 because our system crashed, they have to do this on the
9 weekend or after hours. Our system can't withstand
10:02:04 10 those types of searches during the regular work day.

11 THE COURT: But for the record, all of the
12 principals in District D, the same district upon which
13 Kevin Childs is a trustee, those have all been
14 searched?

10:02:17 15 MR. HONEY: Correct. And I'll point out that
16 when the superintendent put out his memo and the
17 guidelines of the visits, considering that he would
18 have had all the information involved in the situation
19 and the allegations against Trustee Child, he in
10:02:29 20 December when he put out that memo saw fit to send it
21 to the high level administrators and the principals of
22 District D only.

23 So I don't want it to -- because I think they
24 might be used in one of their briefs that cherry picked
10:02:41 25 who we're searching. I don't think we cherry picked at

10:02:43 1 all. We chose those persons that would logically lead
2 to the information that was sought.

3 Now, if the Court feels that we should do 300
4 additional searches, then sobeit. We will obey the
10:02:57 5 Court's order. But I don't think there's anything
6 nefarious, and I don't think there's anything cherry
7 picking in searching the trustees, the superintendents,
8 the chief instruction officer, all of the school
9 associate superintendents, and all the principals of
10:03:11 10 District D.

11 THE COURT: So I want to make sure I
12 understand this. Have all -- I think you said this,
13 but all trustees, their emails have been searched?

14 MR. HONEY: Correct.

10:03:22 15 THE COURT: Okay.

16 MR. HONEY: Non-district employees, as she
17 likes to point out. The Trustee Child isn't an
18 employee.

19 THE COURT: Okay. What about Mr. Cole and all
10:03:31 20 other diversity --

21 MR. HONEY: No.

22 THE COURT: -- and affirmative action
23 programs.

24 MR. HONEY: No. We have not searched the
10:03:37 25 Office of Diversity and Affirmative Action, which is

10:03:40 1 consistent with his affidavit is the equivalent of the
2 Nevada Equal Rights Commission or the Federal EEOC
3 Office. We're such a big employer. We have, you know,
4 over 40,000 employees that we have a whole office to
10:03:53 5 deal with discrimination, harassment, and complaints of
6 the nature that involved in this matter.

7 THE COURT: How many employees are in that
8 office?

9 MR. HONEY: That I don't know. If you -- if
10:04:05 10 you counted support staff, I would say six to ten, but
11 I'm not certain.

12 THE COURT: Six to ten.

13 MR. HONEY: But one of the things that I'm
14 concerned about is you indicated about redacting names.

10:04:20 15 THE COURT: Yes.

16 MR. HONEY: And I'm all for redacting names,
17 your Honor, and we've done this before. The problem is
18 just redacting names doesn't keep the alleged trustee
19 from identifying who complained against him. I'll give
10:04:38 20 you an example.

21 One of the documents that we produced in this
22 case was in regards to an Aloha Dance. And the only
23 thing we were allowed to redact was the principal's
24 name. Now, I may be mistaken on this, but I don't
10:04:51 25 think we even were allowed to redact the school. Okay.

10:04:54 1

THE COURT: Right.

2

MR. HONEY: So the worst-case scenario,

3

Trustee Child knows that somebody from school X

4

complained about him for Aloha Dance. Well, how many

10:05:07 5

Aloha Dances are in school X or any darn school in the

6

school district? He's going to know who it is.

7

THE COURT: But how is that problematic?

8

Really.

9

MR. HONEY: It's problematic because just like

10:05:18 10

the EEOC guidelines and the emails that we've attached

11

where people have vocalized their concerns of

12

retaliation, or being harassed, or being addressed by

13

Kevin Childs about their complaint about his behavior,

14

or the allegation about his behavior, that it doesn't

10:05:37 15

protect them. It doesn't let them be anonymous.

16

Now, petitioner talked about, Well, during an

17

investigation, let's keep it anonymous. If the message

18

to our 40,000 employees is, yes, we have an Office of

19

Diversity and Affirmative Action. If you have

10:05:55 20

complaints of sexual harassment or discrimination, it's

21

going to be protected during the investigation period

22

only. So the investigation lasts two weeks;

23

thereafter, it's free rein.

24

Anyone in the public including the newspaper,

10:06:11 25

whomever, can request that information. There's

10:06:15 1 nothing private in this office other than during the
2 time of the investigation.

3 And, I guess, my -- I guess, what it comes
4 down to is what democratic principle is furthered by
10:06:25 5 that? Because we can't look at this case in a
6 vacuum -- or maybe we should look at it in a vacuum;
7 maybe I have that backwards, in that, in this matter
8 they already have the report. They already have the
9 school district guidelines. They already have, I don't
10:06:40 10 know, approximately 150 pages of emails from all the
11 different individuals that I've already identified.

12 So what further democratic principle is
13 furthered by giving them the draft memo, and the notes,
14 and now emails from the Office of Diversity and
10:06:59 15 Affirmative Action? It's a huge signal to all the
16 employees saying, don't go there. Don't complain to
17 them. Because its -- it's not private. It's not
18 anonymous.

19 Now, this would be a different thing if it was
10:07:11 20 a law enforcement agency investigating a crime, that
21 the allegations were so serious that they were criminal
22 in nature. Sure. Law enforcement, I think everybody
23 understands if they make complaints like that to one of
24 those types of, you know, NERF, or EEOC, or Office of
10:07:28 25 Diversity and Affirmative Action that there's a

10:07:32 1 criminal investigation, that that stuff may come out.

2 THE COURT: Here's my question. And I think
3 this is an important distinction. Isn't there a
4 difference between investigations conducted as it
10:07:41 5 relates to employees of the Clark County School
6 District potentially involved in discrimination and the
7 like versus an elected official?

8 MR. HONEY: If I understand you right --

9 THE COURT: And the reason why I bring that up
10:08:01 10 because you focused on, Well, what democratic
11 principles are we fostering. And I think what's unique
12 about this case is essentially this, and remember this
13 is the first paragraph of the legislature's findings
14 and declarations.

10:08:25 15 And the legislature hereby finds and
16 declares that the purpose of this chapter is to
17 foster democratic principles by providing
18 members of the public with access to inspect
19 and copy public books and records to the extent
10:08:38 20 permitted by law.

21 Now, I think the cornerstone to democratic
22 principles would be knowing and reviewing the actions
23 of elected officials.

24 MR. HONEY: Correct.

10:08:52 25 THE COURT: Right. That's different. That is

10:08:53 1 a different --

2 MR. HONEY: Correct.

3 THE COURT: -- animal.

4 MR. HONEY: And I agree with everything you
10:08:56 5 just said, your Honor. But under the facts of this
6 case where petitioner admits they already have that
7 office's report, they already have the guidelines that
8 were derived from that report, they know what the
9 district did. Here's our investigative report. They
10:09:12 10 have it. Here's what we did. We sent guidelines for
11 the trustee's visits.

12 Because you asked me about the difference
13 between an investigation of an employee and a
14 nonemployee, specifically elected official, yeah,
10:09:25 15 there's a huge difference.

16 THE COURT: Huge difference.

17 MR. HONEY: Because an elected official, we
18 can't discipline them.

19 THE COURT: Right.

10:09:32 20 MR. HONEY: So the only thing we can -- we've
21 done the only thing that we can do. And where would we
22 be if we didn't investigate this? A year from now, two
23 years from now --

24 THE COURT: I don't think anybody --

10:09:47 25 MR. HONEY: -- we have a lawsuit for not

10:09:48 1 investigating it.

2 THE COURT: I don't think anybody is
3 criticizing the investigation in and of itself.

4 MR. HONEY: Sure.

10:09:53 5 THE COURT: But the focus and thrust is the
6 access to records and documents as it relates to the
7 "investigation."

8 MR. HONEY: And I will point out --

9 I got a lot more. Sorry, Maggie.

10:10:06 10 I will point out that all of the prior Nevada
11 cases that have been cited in this case, for example,
12 Don Ray, they wanted a criminal investigation report.
13 They didn't ask for notes. They didn't ask for
14 internal drafts. They didn't ask for all the emails
10:10:24 15 from the investigation office, the law enforcement's
16 office. We don't want all the emails from the
17 secretaries, from the secretary for the officers that
18 did the investigation.

19 It's unprecedented what they're asking for.

10:10:40 20 THE COURT: But what about didn't they ask for
21 the emails in the Reno Newspaper Inc. versus Gibbons?
22 They asked specifically for his emails. And we're
23 talking about a former governor, right? Elected
24 official. And that was emails between the former
10:10:54 25 governor and ten individuals.

10:10:55 1 MR. HONEY: Yeah. And I'm talking about Don
2 Ray, for example, when they wanted an investigative
3 report. Because investigative report is really what's
4 at issue here.

10:11:03 5 THE COURT: Well, I think criminal clearly is
6 different. There's no question about that. I mean,
7 and rightfully so.

8 I mean, hypothetically, there could be a
9 criminal investigation that ends up being meritless.
10:11:14 10 And that can have a significant impact on someones'
11 career and standing in the community. I get that. But
12 here, we're not talking about that. We're talking
13 about actions of a public official. And I think that
14 clearly -- I think if there's a case that comes under
10:11:31 15 fostering democratic principles, I think this would be
16 the case in that regard. Because we're not talking
17 about an employee. We're talking about an elected
18 official.

19 MR. HONEY: And my position, for the record,
10:11:42 20 is that those democratic principles have already been
21 met by the fact that they already have the
22 investigative report and they already have the
23 memorandum which demonstrates the action of the
24 district's highest ranking employee, the
10:11:57 25 superintendent.

10:11:58 1 THE COURT: And I have one more question for
2 you. Because I'm just looking at the email searches
3 being requested. The next appears to be the email
4 addresses for every person who has sent or received
10:12:09 5 responsive documents including as cc's that have
6 already been produced in response to the December
7 request or the February request. What is -- what is
8 that about?

9 MR. HONEY: So they requested the emails as
10:12:26 10 they have. And when they got the responses from us,
11 they're like, Oh, Jane Doe was cc'd on this. Now we
12 want Jane Doe's email searched. Oh, John Doe was on
13 the chain of people this was sent to. Now, we want him
14 searched.

10:12:43 15 And we've done that for the February records
16 we produced. It's our position, the Court hasn't
17 really discussed or shown any indication of where
18 they're leaning on this, is that the February -- the
19 December requests were done when the order was filed.

10:12:58 20 You know, she -- the petitioner states in
21 their reply, In February, we had concerns that we
22 didn't have all the records. Because of those
23 concerns, we did this additional request.

24 I think this starts on page 5 of the reply
10:13:09 25 brief. And going on to page 6, it then leads into the

10:13:14 1 December 10 request. But they have such --

2 THE COURT: You know, what I think it is. And
3 counsel on behalf of the petition can correct me if I'm
4 wrong or not. I think what -- it appears to me the
10:13:24 5 reason for that is essentially this, the thrust and
6 focus of the records request would be essentially this:
7 It appears that the petitioner just wants to make sure
8 that there were no complaints out there that were
9 overlooked.

10:13:37 10 MS. McLEITCHIE: That's correct, your Honor.
11 And we certainly -- and we didn't know. At that point
12 we didn't know until March 13th that they had limited
13 searches. And I certainly did make clear that we would
14 be seeking a follow-up request to the December request
10:13:49 15 because of my concerns about the December -- the
16 responses to the December request. We spoke about it
17 here in court. We set a briefing schedule. So the
18 idea that these are somehow totally dislinked, the
19 December request and the February request, is
10:14:04 20 incorrect, your Honor.

21 THE COURT: And I should say concerns or
22 complains that were overlooked. And I understand that.
23 But go ahead, Mr. Honey.

24 MR. HONEY: Yeah. And I have no problem with
10:14:11 25 them doing their due diligence and making a February

10:14:12 1 10th request. But that doesn't -- that doesn't take
2 away the fact that the February 10th request -- or I'm
3 sorry, the December requests were part of a writ filed
4 in January, ruled on in court on February 14, and an
10:14:26 5 order prepared by petitioner filed on, I believe,
6 February 23.

7 And so on March 20 -- the 23rd letter, from
8 counsel when they say, Oh now, they want all the cc's,
9 to's, and from's for all the records produced, even if
10:14:46 10 they were produced in regards to the December request.
11 That ship has sailed. She drafted that order. She
12 filed that order.

13 If she had a problem with the order that she
14 filed with the Court and the notice of entry she filed,
10:14:56 15 her appeal clock was ticking. And to somehow by
16 letter, by correspondence a month later request it,
17 that doesn't seem lawful to me.

18 Now, I understand judicial efficiency, and I
19 think petitioner raised --

10:15:18 20 THE COURT: I would love to be efficient and
21 wrap this up. And not see you again and have all the
22 documents produced, and everybody's confident, and we
23 can go home.

24 MR. HONEY: I think --

10:15:29 25 THE COURT: I don't mind having you in court.

10:15:30 1 I don't. But I would love to be very efficient and get
2 this done without any more work. But ...

3 MR. HONEY: I think all -- I think both
4 parties probably agree with that as well. Although, I
10:15:41 5 won't speak for Maggie.

6 Petitioner raised the issue of judicial
7 efficiency in regards to jurisdiction. Judicial
8 efficiency shouldn't come at the cost of following the
9 law. She doesn't cite a single case or even
10:15:59 10 distinguish the cases cited by respondent in regards to
11 our jurisdiction argument. She states that, Oh, well,
12 apparently it became moot because things were filed
13 later, and here we are. We briefed it.

14 But the case law doesn't say it's mute. And
10:16:17 15 Chapter 239 is clear. When you file a written request,
16 you can inquire in regards to the response to that
17 request once a reply date has passed.

18 Now, they want to hang their hat on the fact
19 that I used the language we anticipate -- anticipate or
10:16:36 20 likely anticipate a response by March 3rd. That
21 doesn't change the fact that March 3rd was the date we
22 gave, and March 3rd was the date we responded.

23 The statute 239 also requires that they can
24 file an application once it's been affirmatively
10:16:54 25 denied. Their February 10th request was not

10:16:58 1 affirmatively denied on March 1st. It was never
2 affirmatively denied.

3 The reason I bring this up is because when we
4 had our original hearing on the December requests, the
10:17:08 5 Court made it very clear that, you know, that they were
6 going to take strict adherence to the statute. That it
7 says here in the statute, Mr. Honey, where in the
8 statute does it say that these records are
9 confidential? And, of course, we hadn't asserted any
10:17:22 10 privileges in regards to December, so we didn't really
11 give the Court -- we didn't give ourself much of a
12 chance back then.

13 THE COURT: But I mean, really.

14 MR. HONEY: But now, it seems like we're kind
10:17:30 15 of going loosey-goosey on the statute.

16 THE COURT: Well, no. There's two provisions
17 under the statute. First and foremost, the legislature
18 has spoken and said, Look, this is -- the provisions of
19 this chapter must be construed liberally to carry out
10:17:44 20 this important purpose. And so there's liberal
21 construction as far as the application of the statute
22 is concerned.

23 If there's going to be an assertion of
24 privilege, the privilege assertion should be asserted
10:17:58 25 with particularity. That's essentially what I'm

10:18:02 1 talking about there. So if you're asserting a
2 privilege, No. 1, I have to have the document
3 identified. And you've done that.

4 But, No. 2, I have to have the statutory basis
10:18:11 5 for the -- case law basis for the privilege. And
6 that's what I'm talking about. Because that makes my
7 job a lot easier.

8 MR. HONEY: Sure. And I believe we've done
9 that in our March 3rd response to her. We say why
10:18:23 10 investigative materials are privileged. I believe
11 after she inquired questioning our asserted privileges,
12 we further responded on March 13th and then, of course,
13 in our answering brief as well.

14 THE COURT: And there's a reason why I
10:18:37 15 interpret the statute that way because that's what the
16 statute provides; right?

17 MR. HONEY: Correct. And, but the statute
18 isn't going to be interpreted in such a manner that
19 every records request, no matter what, must be complied
10:18:48 20 with or is required to be complied with.

21 THE COURT: No. I understand that.

22 MR. HONEY: Okay.

23 THE COURT: There's limitations. But that's
24 one of the reasons why I'm asking you specifically,
10:18:56 25 questions as to what would be the mechanics of certain

10:19:02 1 search requests. But, nonetheless, that's not
2 necessarily a defense. But I want to make sure I
3 understand what's going on because, you know, if you
4 read the statute itself, when it talks about, for
10:19:12 5 example, here's paragraph 3:

6 Any exemptions, exceptions, or balancing of
7 interests which limits or restricts access to
8 public records -- public books and records, by
9 members of public must be construed narrowly.

10:19:31 10 Right? And so there's two things there our
11 legislature is saying: No. 1, you got to apply this
12 broadly as to any public records request.

13 But, No. 2, if a position is taken that, you
14 know what, we shouldn't produce these documents, I have
10:19:43 15 to narrowly construe that. That's how I read that.

16 MR. HONEY: Yes, your Honor.

17 Now, aside from the jurisdiction, one of the
18 other arguments that we have that hasn't been addressed
19 yet today is the regulations of CCSD. Now, it's clear
10:20:02 20 that the legislature, in its wisdom, provided the
21 school board statutory authority under -- I think it's
22 386350, if I'm not mistaken, the right to create
23 regulations.

24 And in our answering brief, we've cited the US
10:20:21 25 Supreme Court that broadly interprets that a regulation

10:20:27 1 is a law. When the legislature creates a law, they use
2 language for a specific purpose. When they use the
3 word "law", instead of the word "statute" they clearly
4 mean the more broad meaning of law, meaning ordinances,
10:20:45 5 regulations, code type of things created by city
6 counsels, county commissions, and school boards such as
7 here.

8 Now, I've even cited case law where the Nevada
9 Supreme Court considers the legality of a regulation.
10:21:08 10 Not whether it was legal for them to create this
11 regulation, but whether or not the regulation itself is
12 lawful. That -- statutes get decided by courts to be
13 lawful or not as well. That doesn't mean that
14 regulations aren't laws. It means that that particular
10:21:26 15 regulation made it all the way to the Nevada Supreme
16 Court for the legality of it.

17 Now, if you go to our website, the CCSD web --

18 THE COURT: Here's my question --

19 MR. HONEY: Um-hum.

10:21:38 20 THE COURT: -- as far as regulations are
21 concerned, Wouldn't you agree that the -- whatever
22 regulations that are enacted by the school board, they
23 can't be contrary to the laws and acts of the Nevada
24 legislature, right?

10:21:52 25 MR. HONEY: Correct. And in 239, 239

10:21:55 1 specifically provides for confidentiality consistent
2 with any other laws.

3 Now, it seems almost inconceivable to me that
4 the Nevada Administrative Code created by state
10:22:17 5 employees are apparently given more credence by
6 petitioner, and maybe the Court, I don't know, than the
7 regulations created by the elected body, Clark Count
8 Board of Trustees.

9 Over 2 million people in the county. Seven
10:22:37 10 elected officials. Somehow their regulations should be
11 given less weight than administrative code created by
12 some committee at the DMV that decides that, you know,
13 if you've had a felony within the last four years you
14 can't sell cars. We're not going to give you a car
10:22:52 15 salesmen license.

16 That code or regulation is going to be
17 enforceable law but the regulations of the school
18 district are not? Now --

19 THE COURT: I guess, it really comes down to,
10:23:03 20 is it contrary to the statutes of the Nevada
21 legislature?

22 And secondly, there could be issues regarding
23 constitutionality. But that's not really the issue
24 here. I mean, because based upon my interpretation of
10:23:15 25 Chapter 239, it appears that the Nevada legislature has

10:23:21 1 spoken. And they say clearly that the application of
2 this statute must be construed liberally to carry out
3 this important purpose. And that's access by members
4 of the public to inspect and copy the public books and
10:23:39 5 records.

6 MR. HONEY: And in 239.010, after it lists all
7 of the statutes which deems certain records
8 confidential, it also says something to the effect -- I
9 don't have it right in front of me.

10:23:57 10 THE COURT: That's okay.

11 MR. HONEY: The records deemed confidential
12 otherwise by law. So my position is completely
13 consistent with 239. It's picking another part of the
14 statute in order to nullify 239.010 that lists all the
10:24:16 15 confidentiality.

16

17 (Pause in proceedings while unrelated
18 matters were heard.)

19 THE COURT: Sorry about that.

10:24:38 20 MR. HONEY: Perfectly fine, your Honor.

21 And so the portion of Chapter 239.010 that
22 talks about confidentiality specifically says other
23 laws -- or other records deemed confidential by law.

24 So it's not contradicting the statute. It's
10:24:58 25 completely consistent with the statute. If the

10:25:00 1 legislature meant something else, they could have said
2 something else. It's a clear, plain meaning of the
3 text of the legislation. And, furthermore --

4 THE COURT: So if I follow that argument, if
10:25:11 5 the Clark County School District came up with
6 regulations that all records of the Clark County School
7 District are confidential.

8 MR. HONEY: I bet you it would be challenged
9 in court as being overbroad.

10:25:25 10 THE COURT: And probably beyond the powers
11 that were granted to the Clark County School District
12 by the Nevada legislature.

13 MR. HONEY: And you can let a party make that
14 challenge as opposed to making that law decision from
10:25:42 15 your position. And this is one thing I want to point
16 out, too, your Honor, is the protections gather --
17 provided by the regulation --

18 THE COURT: Because, I mean, really and truly
19 when you look at it from this perspective, the Clark
10:25:57 20 County School District vis-à-vis through its trustees
21 are essentially there for one purpose. And that's to
22 run the Clark County School District and to educate the
23 children of Clark County; right? We can all agree to
24 that.

10:26:08 25 When it comes to issues regarding privilege,

10:26:10 1 access to public records, and the like, that's not
2 really what they're there for.

3 MR. HONEY: Well, when we have over 40,000
4 employees, I kind of have to respectfully disagree that
10:26:21 5 they also have massive obligations in regards to
6 protecting employees from harassment, discrimination --

7 THE COURT: But we're not talking about --

8 MR. HONEY: Retaliation.

9 THE COURT: But once -- I was real clear at
10:26:31 10 the very beginning, we're not talking about employees.
11 We're talking about actions of an electric official,
12 which is different.

13 MR. HONEY: I'm so glad you brought that up
14 because the people that are in these records are
10:26:40 15 employees. We keep looking at personnel only in
16 regards to the trustee. What about the personnel
17 status of these employees that are listed in these
18 records? That their names are identified?

19 THE COURT: It's my understanding there was no
10:26:54 20 action taken against these employees for complaining;
21 right?

22 MR. HONEY: None that I'm aware of.

23 THE COURT: Okay.

24 MR. HONEY: But whether or not, but whether or
10:27:04 25 not the trustee --

10:27:07 1 THE COURT: And I'm going to weigh and balance
2 that. But I don't mind saying this. I think the
3 public has a right to know.

4 MR. HONEY: And they already do know. Now,
10:27:18 5 the regulation enacted lawfully by the school board
6 does not grant any further protections to the state
7 employees again under the NAC. It's done far more
8 concisely instead of doing it in a regulation with, you
9 know, A through Z subparts. It's done much more
10:27:37 10 quickly.

11 I'm not -- quite -- don't quite understand
12 where the idea that a school district employee, a
13 political subdivision of the state, should be afforded
14 less rights than a state employee.

10:27:50 15 Now, petitioner indicates in their reply brief
16 this example of this, you know, 62 year old, I don't
17 know, golden age card for getting into sporting events
18 or activities, saying, Well, that's a regulation, and
19 that's just ridiculous if that's a law.

10:28:08 20 If you go to CCSD's website for our
21 regulations, I think there's seven or eight pages.
22 There's probably 300, 350 regulations. I'm estimating
23 there. I don't know how many regulations there are.
24 And she picks out one regulation.

10:28:23 25 Okay. With that being said, if the school

10:28:28 1 district doesn't follow that regulation, sure somebody
2 can file a lawsuit. They can file for an injunction.
3 They can file a writ. But to say that all the
4 regulations are null, or none of the regulations are
10:28:41 5 law because, oh, well, this one seems silly. If that's
6 the case, then City of Henderson, you know, they have
7 ordinances against strip clubs being next door to
8 schools.

9 Well, that's not a law. It's just an
10:28:54 10 ordinance made by a city commission. Go ahead. Open
11 your strip club. Let's put a gun store, a liquor
12 store, a bar, and a gentleman's club all right on the
13 corner next to Green Valley High School because the
14 Courts decided that these ordinances aren't laws.

10:29:11 15 THE COURT: I don't think any courts ever
16 decided that.

17 MR. HONEY: But you understand my point.

18 THE COURT: No, I understand.

19 MR. HONEY: It is to say that the school
10:29:16 20 district's regulations lawfully enacted through
21 authority granted by the state legislature somehow
22 aren't laws, but and then a city commission --

23 THE COURT: I think they have different
24 standing then an ordinance versus a regulation. Those
10:29:32 25 are different animals. But go ahead. I understand.

10:29:34 1 MR. HONEY: But there won't -- I think the
2 courts of this land, the Supreme Court has determined
3 that they all fall under the larger umbrella of law,
4 which is contained in 239.010. I'll move on, your
10:29:45 5 Honor.

6 THE COURT: Yeah.

7 MR. HONEY: And I really thank you for your
8 patience.

9 Now, the Court, when Ms. McLetchie was making
10:29:55 10 her statements, made a reference to 01072, I believe,
11 about an oral request for records. If I --

12 THE COURT: The reason, I don't mind
13 clarifying that, to me, and this is how I interpret
14 that, because -- and we'll be real specific here as far
10:30:15 15 as the language of the statute. In taking a look at
16 NRS 239.0107, as it relates to the request for
17 inspection or copying of public books or records action
18 by government entities, paragraph 2 provides as
19 follows:

10:30:34 20 The provision of this section must be
21 construed to prohibit -- not to -- must be --
22 must not be construed to prohibit an oral
23 request to inspect or copy public records or
24 documents.

10:30:48 25 The reason why I brought that up is this:

10:30:53 1 That tells me that once the request is made, it doesn't
2 even have to be memorialized in writing. You can make
3 a verbal request for public records, and behind that
4 would be the idea that, you know what, you don't have
10:31:09 5 to be a newspaper to request public records, but the
6 public has a right to know.

7 And so someone walks into the public
8 information officer for any public agency. They said,
9 Look, I want these records. And so the response could
10:31:24 10 be, Well, put it in writing first. No. The
11 legislature has spoken and said, Look, they get -- a
12 verbal request is as good as a written request. That
13 tells me that the request -- that the purpose of the
14 statute as it relates to requests for public documents
10:31:41 15 and records is very broad.

16 MR. HONEY: And what I would say to that is an
17 oral request isn't at issue in this case.

18 THE COURT: I understand.

19 MR. HONEY: No. I know you know that, your
10:31:50 20 Honor.

21 THE COURT: Yeah.

22 MR. HONEY: And also a layperson requesting
23 records is not at issue here. A newspaper reporter
24 that supposedly makes multiple newspaper or public
10:31:59 25 records requests, first made requests in December and

10:32:02 1 then a 3-page request by counsel for the Review Journal
2 made a request. So laypeople, oral, I understand -- I
3 understand what you're saying about the openness of
4 records and such.

10:32:14 5 THE COURT: No. I guess, what I'm saying is
6 this, I mean, the reporter making a request would be no
7 different than a layperson, right, because they're not
8 lawyers. Lawyers can be very specific.

9 And so the bottom line is this, and I think
10:32:25 10 that kind of goes to the jurisdictional issue. I mean,
11 once those requests are made regarding the actions of
12 an elected employee here in the state of Nevada, and
13 the appropriate petitions filed, I -- it's going to be
14 my decision that I have jurisdiction, I do, to bring
10:32:46 15 this whole issue regarding the initial public request
16 and subsequent follow ups and fine tuning by counsel
17 versus laypeople. It's in front of me. And hopefully,
18 I'll finalize it up. That's really what I'm getting
19 to.

10:33:02 20 MR. HONEY: Sure. Let's see.

21 THE COURT: Because at the end of the day we
22 shouldn't have to have lawyers involved; right? That's
23 how I look at it.

24 MR. HONEY: Well, when you're dealing with the
10:33:19 25 school district, and we have FERPA rights of students,

10:33:21 1 our records get peppered with confidential information
2 at times by federal law. It's almost inevitable.

3 THE COURT: But we're not asking for academic
4 records of students and the like, right?

10:33:33 5 MR. HONEY: No, no. But you'd be surprised
6 how often they end up being in what you would think
7 would be a request that it wouldn't come through, and
8 then there, lo and behold, Johnny and his Student No.
9 and his English grade is, you know, buried in, you
10:33:47 10 know, page 5 of 500 pages. And so we have to take our
11 diligence and go through every single page --

12 THE COURT: I appreciate that.

13 MR. HONEY: -- to do that. We take our
14 students' privacy rights very seriously --

10:33:58 15 THE COURT: All right.

16 MR. HONEY: -- as we do the protection of our
17 employees from harassment.

18 Now, we haven't addressed the due process
19 privilege. And in this case, you have the affidavit of
10:34:13 20 the Office of Diversity and Affirmative Action stating
21 that he was directed by the superintendent to
22 investigate the alleged misconduct of the trustee.

23 He conducted that investigation and created a
24 report already in petitioner's possession which
10:34:36 25 included recommendations for further action. That

10:34:40 1 report was addressed to the superintendent. The
2 superintendent then uses that report, those
3 recommendations in part, to come up with these
4 guidelines for the trustee's visits.

10:34:55 5 The superintendent is the highest level
6 executive employee of the school district. This falls
7 directly within the deliberative process privilege.
8 Clearly, we're taking a deliberative process to
9 determine how are we going to deal with these alleged
10:35:12 10 actions? How are we going to determine whether or not
11 the trustee's actions violated anyone's rights? And
12 how are we going to protect these employees from
13 further similar alleged acts given the fact that this
14 is a -- this is a nonemployee doing this to whom which
10:35:33 15 we can't otherwise discipline?

16 Couldn't be any clearer under the deliberative
17 process privilege. In fact, I'm surprised that it
18 hadn't been addressed yet during the time here. I
19 certainly hope that this -- this argument of privilege
10:35:53 20 isn't just -- isn't just glossed over.

21 I don't know what else the highest level of
22 employee of the school district can do to deliberate,
23 consider the allegations, get a report, find out what's
24 going on, and then make a policy or conduct an action
10:36:16 25 in regards to it. It's not like he just -- it's not

10:36:19 1 like he just got the Cole report and did nothing.
2 Because then there really -- the process kind of ended.
3 He didn't really follow through.

4 But here, you have the full process ending
10:36:27 5 with a guideline of the trustee's -- how he's supposed
6 to behave or how his visits are supposed to be
7 conducted that went out to, you know, 60 people
8 roughly, 80 people roughly to ensure that the guideline
9 is carried out.

10:37:04 10 And hopefully finally, petitioner doesn't
11 demonstrate a single case where investigative report of
12 discrimination or harassment was ordered to be produced
13 under the NPRA, which really are breaking new ground
14 here. And the personnel of the school district, the
10:37:26 15 alleged victims of this misconduct, they will be
16 compromised if we give out the notes that the Office of
17 Diversity took in regards to their interviews of them.

18 And so it's not a matter of the trustee
19 personnel, which everybody seems to be focusing on.
10:37:49 20 This is about the victims, which seem to be maybe a
21 little bit overlooked here. Or the alleged victims, I
22 should say.

23 And, again, I want to reiterate based on the
24 information they already have --

10:38:00 25 THE COURT: It did appear, we produced some of

10:38:03 1 those; right?

2 MR. HONEY: Yes. In regards to the February
3 order of the Court, your Honor.

4 THE COURT: Yeah.

10:38:07 5 MR. HONEY: We have redacted stuff, and did
6 the redactions exactly as you had requested. There was
7 one page that --

8 THE COURT: Because I remember some -- there
9 were reports. I read them all. But there were reports
10:38:18 10 regarding allegations as to specific conduct and the
11 like. And those were produced, it's my understanding.
12 Is that --

13 MR. HONEY: Yes. And then further unredacted
14 at the order of the Court.

10:38:33 15 THE COURT: Yeah. Okay.

16 MR. HONEY: To the point that we feel that the
17 trustee is able to identify who these people are
18 because he was there when the alleged misconduct
19 occurred.

10:38:46 20 You know, when we have middle school Bob
21 Smith, and we just delete the word principal, or delete
22 just their name and leave the word principal, there's
23 only one principal on a given date at that school.
24 He's going to know who it is. Or there's only a
10:39:03 25 handful of assistant vice principals. So if it's a

10:39:06 1 vice principal, then he could figure out pretty easily
2 who it is. And that puts these people in harm's way.
3 And we don't want further people --

4 THE COURT: How does that put them in harm's
10:39:15 5 way?

6 MR. HONEY: Because he can identify who's
7 claiming against him.

8 THE COURT: Okay. But other than the
9 identification, there's no specific action he can take
10:39:25 10 from a retaliation standpoint is there?

11 MR. HONEY: I don't know. He's part of a
12 seven-member political elected officials that, you
13 know, need to get each other's votes to pass things.

14 THE COURT: But.

10:39:40 15 MR. HONEY: I'm not sure what he can and can't
16 do.

17 THE COURT: But, I mean, he's not involved in
18 the day-to-day hiring and firing of employees for Clark
19 County School District, right?

10:39:52 20 MR. HONEY: Day to day, no.

21 THE COURT: He's not involved in the decision
22 as it relates to promotion of employees in the Clark
23 County School District, right?

24 MR. HONEY: Well, he would vote on those.

10:40:03 25 THE COURT: Well, I'm talking about would he

10:40:05 1 vote on whether a person is appointed, newly appointed
2 as a vice principal at a specific school?

3 MR. HONEY: Those go in front of the board for
4 their vote.

10:40:14 5 THE COURT: Okay. At what level -- so I
6 understand how the school district works. At what
7 level are the trustee's involved with promotions for
8 employees?

9 MR. HONEY: They don't make the decision of
10 who's brought to them for a promotion. And now, I've
11 never attended a school board meeting, but I do believe
12 that there is, like, a consent agenda, which -- I don't
13 know the best way to describe it. But I think they do.
14 They vote on what's a consent agenda, which would be
15 somebody changing from, like, a teacher to a vice
16 principal position. But there's -- do they
17 specifically get in there and hire somebody? No. They
18 aren't the human resources department.

19 THE COURT: I understand.

10:41:01 20 MR. HONEY: But as the trustees of the school
21 district, they have a great amount of influence. I
22 mean, come on. They're the trustees of the school
23 district. I think it's kind of coy to pretend like
24 that they don't have influence on these matters if they
10:41:15 25 so chose to in some type of fashion that maybe most, if

10:41:19 1 not all of us, would think potentially would be
2 inappropriate. I don't know. I don't know what people
3 are capable of.

4 THE COURT: No. I understand that. I do.

10:41:26 5 MR. HONEY: And that's the difficulty here
6 because he's not an employee; right? We're doing our
7 best to protect our employees from alleged misconduct,
8 serious alleged misconduct. It's all we're trying to
9 accomplish here.

10:41:41 10 Again, I just want to reiterate the democratic
11 principles have been met. They have the Cole report.
12 How much more do they need? They have the report.
13 They have the action that we did in regards to that.
14 No other case has --

10:41:54 15 THE COURT: But, I understand what you're
16 saying, they have what they need. But, ultimately,
17 that isn't the decision of the Clark County School
18 District as to --

19 MR. HONEY: Correct.

10:42:01 20 THE COURT: -- whether they have --

21 MR. HONEY: Correct. Yeah. And that's -- I'm
22 arguing this to you most certainly, Judge Williams, for
23 sure.

24 THE COURT: But it's not their determination.
10:42:08 25 I mean, at the end of the day, I think they have all

10:42:11 1 that they need if there's assurance that that is all
2 there is. Right? That's when they have all that they
3 need.

4 MR. HONEY: And we've told them all that there
10:42:19 5 is. We've given them a privilege log. Where there was
6 an issue here is the notes from the executive manager
7 of the Office of Diversity, the internal memorandum
8 that then became his official memorandum that went to
9 the -- went to the superintendent.

10:42:51 10 You asked earlier about -- maybe this note
11 isn't written down correctly, about nonemployees. You
12 asked Maggie about it. And just to make sure that
13 we're clear, and I know this from our brief. So, for
14 example, casinos have been held liable for the actions
10:43:07 15 of nonemployees. Harassing, you know, dealers and
16 stuff like that, or cocktail waitresses when a employer
17 knew about it and did nothing about it. I think it is
18 generally, the few times that it's come up, I think
19 it's when they have whales, as we call them in Clark
10:43:23 20 County. And I don't know if that addresses the
21 question that you asked earlier in regards to employees
22 and nonemployees.

23 But the point being is if the district doesn't
24 take action, potentially, we could be liable.

10:43:40 25 You don't have anything to respond to that; do

10:43:48 1 you, Maggie?

2 MS. McLEITCHIE: I do. I'll be brief.

3 THE COURT: All right.

4 MS. McLEITCHIE: The last few words.

10:43:51 5 MR. HONEY: Yes. And, your Honor, thank you
6 for your patience today. I do really appreciate it.

7 THE COURT: You're welcome, sir.

8 MS. McLEITCHIE: Your Honor, under the Public
9 Records Act, we don't have to establish relevance. A
10:44:01 10 few times I've heard today they don't need anything
11 else. This isn't even relevant to anything.

12 We also don't have the burden; although, I
13 think we have sufficiently explained why. And I think
14 your Honor understands why. We don't have the burden
10:44:13 15 of explaining to them the democratic principles apply.
16 They have the burden today, your Honor.

17 And what the Public Records Act says is if --
18 you get to give a requester enough records. If it's --
19 if there's a democratic principle at issue, you must
10:44:30 20 produce public records. The Public Records Act says
21 all records of a public entity are to be available for
22 inspection or copying.

23 And so there's this idea that we have to show
24 relevance. And they're turning it on its head, your
10:44:44 25 Honor. And the idea, for example, that I need to have

10:44:46 1 an exact parallel case from the Nevada Supreme Court
2 that deals with this exact issue in order to establish
3 my access to the records, I will say, your Honor, even
4 in the Don Ray case that establishes that even if it's
10:44:57 5 not declared law to the confidential, a public entity
6 can assert another claim of confidentiality. In that
7 case, they ordered disclosure. Even when they were
8 talking about a criminal investigation report, they
9 ordered disclosure. And in applying to the law to the
10:45:12 10 facts of this case, disclosure must be ordered.

11 Your Honor has already pointed out that you're
12 going to find that you have jurisdiction. But I did
13 just want to say, your Honor, they delayed telling me
14 what searches they conducted in response to either
10:45:28 15 request. So to say things like, The ship has sailed,
16 and that this Court doesn't have jurisdiction, that I
17 can't raise issues is just not -- not appropriate. And
18 I will say, your Honor, they kept delaying information
19 until after they knew I had deadlines, your Honor.

10:45:43 20 Again, I work for a newspaper, reporters.
21 We're trying to get information to the public, to the
22 taxpayers, to the citizens of Nevada. And public
23 records matters are supposed to be handled
24 expeditiously.

10:45:55 25 With regard to this idea that they fully

10:45:57 1 handled the December request, they didn't. They
2 secretly withheld a whole swath of documents without
3 telling me.

4 And it's not really relevant in any case
10:46:07 5 because the February request, written by me, includes,
6 basically overlaps, with so many of those requests.
7 And this Court has indicated the February request is
8 also properly before this Court.

9 And I want to explain, even though we don't
10:46:19 10 have the burden of doing so, and you can imagine the
11 strange position it would put reporters in if they had
12 to contact a public entity and say, Hey, here's why I
13 need more. You're saying, good enough, like Mr. Honey
14 has said. Good enough. You had enough. I've given
10:46:31 15 you what I think are the most responsive records.

16 Again, there is no relevance or most-responsive
17 requirement in the NPRA.

18 But the reason we want more is because we have
19 a right to look at the underlying documents and
10:46:45 20 ascertain whether or not the Cole report's conclusions,
21 which we have part of, but as he pointed out --
22 Mr. Honey pointed out the log, there's other documents.
23 And what doesn't appear on the log -- besides the
24 additional documents that are listed on the log, what
10:46:59 25 doesn't appear on the log are the hard copy documents

10:47:01 1 and the emails that they are still refusing to search.

2 The idea, by the way, of justiciability is
3 also just -- it's really -- what they're really arguing
4 is that my amended petition wasn't ripe because they
10:47:15 5 delayed telling me what they were or weren't doing. It
6 doesn't matter because we are here, and we have a clear
7 controversy. Mr. Honey just argued for quite some time
8 making clear that we do have a justiciable controversy
9 here before us today.

10:47:29 10 With regard to the idea that there's some sort
11 of -- that their policy can trump the Public Records
12 Act, it's -- we've briefed this extensively. I'm not
13 going to belabor these issues. They're in our brief.
14 But the -- you're supposed to, as the Court has said
10:47:44 15 today, you have to interpret exceptions narrowly to the
16 Public Records Act. And the way that CCSD described
17 its own policies and regulations is: The purpose of
18 these policies and regulations is to provide directions
19 regarding the details of district operations. Policies
10:47:59 20 are more general principles, while regulations contain
21 specific details and procedures.

22 They're details and procedures and guiding
23 principles for their own operations. Certainly, that
24 can't be found to trump the Public Records Act because,
10:48:13 25 as your Honor has pointed out, that would lead to the

10:48:17 1 ridiculous conclusion that any public entity could say,
2 Hey, I'm going to pass an administrative code or
3 Ordinance or regulation saying my records aren't
4 public.

10:48:27 5 With regard to the idea that deliberative
6 process applies here, first of all, the decision maker
7 was a superintendent. Interestingly, there's no
8 documents on the privilege log that reflect the
9 superintendent engaged in any deliberative process.

10:48:43 10 What that privilege is supposed to protect against
11 isn't documents that somebody looks at in making a
12 decision, but the actual machinations of decision
13 making. And that report is not that.

14 Further, that privilege is not absolute. Not
10:48:58 15 only do they have a heavy burden in establishing that
16 it exists, that it applies to this case, they also must
17 demonstrate that its need -- that the need for the
18 information outweighs the regulatory interest, the
19 burden shifts to the party -- this is just in a
10:49:12 20 standard deliberative process case. The burden shifts
21 to the parties seeking disclosure. This assumes the
22 deliberative process even applies. Then the public --
23 the person seeking information can demonstrate that the
24 need outweighs the regulatory interest in preventing
10:49:25 25 disclosure.

10:49:25 1 Here, we've, obviously, explained the great
2 public interest in getting this information, and,
3 especially, in looking at the deliberative process
4 privilege in the context of the Public Records Act,
10:49:37 5 they have not met their burden.

6 The idea that they're going to be in harm's
7 way, this is just one trustee. He can't unilaterally
8 make any decisions. And they haven't pointed -- the
9 Nevada Supreme Court has said you can't just point to
10:49:51 10 hypothetical or speculative harms. And any of their
11 concerns, frankly, could be met by redactions to the
12 extent they're valid concerns.

13 And they say, Well, there might be additional
14 information that would need to be redacted. That's,
10:50:05 15 again, not an argument for what they're doing, which is
16 wholesale withholding.

17 A few times today we've heard about how much
18 they have to do, how many requests we made, how we're
19 requesting all these documents, and how hard it is to
10:50:18 20 search documents. A lot of that is of their own doing
21 of how they organize information. But I want to point
22 out responding to public records request is not
23 peripheral to any public entity's duties.

24 They work for the taxpayers. They work for
10:50:30 25 the public. They would for the voters. They work for

10:50:32 1 the parents and kids at the schools. People have a
2 right to access documents.

3 They're just -- this idea that, well, we
4 shouldn't have to keep giving them information because,
10:50:40 5 you know, Ms. McLetchie has just asked us for so much,
6 and we've given them enough. That's just not -- that's
7 just not consistent with Public Records Act.

8 The idea that I've been disingenuous in
9 offering help is just incorrect, your Honor. I can't
10:50:53 10 help in a vacuum. I didn't get information. I'm not
11 going to get into any of the kind of back and forth
12 that Mr. Honey and I have had in this case, which has
13 been extensive, but I kept asking for information.
14 Kept asking for information.

10:51:07 15 And I can't help craft searches, or say, Okay,
16 well, maybe those email boxes, we don't want to search.
17 Let's talk to your IT guy and see how we do this. I
18 can't do that when I'm kept in the dark, which I was
19 until March 13th.

10:51:22 20 They didn't put any of those documents they
21 withheld on any log. And to the extent that they're
22 saying the February -- the December request is over,
23 they're in violation of the December order because they
24 didn't make full production of those documents
10:51:32 25 initially.

10:51:36 1 The idea that FERPA might apply, this is a
2 minor issue, but they assert FERPA. They -- it's
3 just -- it just doesn't apply, and they haven't met the
4 burden of showing that it applies to these records.

10:51:49 5 More importantly, that raises a bigger picture issue
6 which is, he mentioned an instance of where it might be
7 buried in a document, and, therefore, you have to be
8 really careful, and Public Records Act requests are so
9 hard to respond to. Again, CCSD should organize its
10:52:02 10 records in a way that maintains confidentiality,
11 protects student records, but still allows access.

12 And allowing things to get mixed up like that,
13 I litigated another case years ago, and
14 Judge Susan Johnson said the same thing. CCSD needs to
10:52:16 15 organize its records in a way that allows access and
16 doesn't just allow the school district to keep saying
17 it's too hard to produce records, and we have
18 confidential information mixed in, and it's just too
19 hard.

10:52:26 20 That's all I have, your Honor. Thank you.

21 THE COURT: All right. And I just want to go
22 through the request to make sure I understand what's
23 being requested. I'm looking at page 24 of the
24 petition, and, I guess, it starts out at line 15 as it
10:52:46 25 relates to email searches.

10:52:48 1 MR. HONEY: Just a moment, your Honor.

2 THE COURT: Yes.

3 MR. HONEY: You said this is the petition

4 itself?

10:52:54 5 THE COURT: I think. Let me see. It might be

6 the opening brief.

7 MS. McLEITCHIE: It might be his opening brief,

8 your Honor.

9 THE COURT: Opening brief.

10:52:59 10 MR. HONEY: Okay.

11 MS. McLEITCHIE: Yeah.

12 MR. HONEY: And you said page 24, your Honor?

13 THE COURT: Yeah.

14 MR. HONEY: Thank you.

10:53:03 15 THE COURT: Because I think in the conclusion

16 isn't that, in essence, what's being requested, ma'am?

17 MS. McLEITCHIE: Yes, your Honor. All

18 trustees -- part of the reason I do want that

19 certificate, your Honor, is the trustee production is

10:53:19 20 strange because it doesn't -- if they produced it from

21 all the trustees, you should see the same document in

22 different forms.

23 THE COURT: And I want to make sure I

24 understand that. When you say, No. 1, I see all

10:53:30 25 principals, not just those in District D.

10:53:32 1 MS. McLETCHE: Correct.

2 THE COURT: And why all principals?

3 MS. McLETCHE: Because, your Honor, there

4 have been complaints about Kevin Child's behavior at

10:53:38 5 other schools.

6 THE COURT: I thought I read that in the

7 complaints that were produced. Because not all the

8 complaints were in District D; is that correct?

9 MS. McLETCHE: Correct. Correct.

10:53:44 10 THE COURT: Okay. I understand.

11 MS. McLETCHE: And then with regard to all

12 trustees, they have indicated they've produced these.

13 I would like to be make sure that they're -- they

14 actually have produced these. I have some concerns

10:53:54 15 about the production because, typically, if, for

16 example, in a discovery matter, you produce a document

17 twice if it's in two different custodians documents.

18 Sometimes somebody appears at "to" or the "from". And

19 some documents only appear once. And it's -- most

10:54:09 20 documents seem to only appear once. So I do think we

21 still need an order about the trustee email. And

22 Cedric Cole and other diversity affirmative action

23 program staff, we think those emails should be searched

24 because, again, we want to assess how valid and proper

10:54:25 25 that investigation was.

10:54:26 1 The email addresses for every person who is
2 said to receive responsive documents including a cc
3 that have already been produced in response to the
4 December request or the February request, they say that
10:54:35 5 they've done that. Again, I think -- I have some of
6 the same concerns I had with the trustees' emails. If
7 they've actually produced everything, it shouldn't be
8 an issue.

9 And then finally --

10:54:45 10 THE COURT: How do they respond to this? And
11 at the end of the day this is a very important point.
12 Mr. Honey, I think, in some of the correspondence
13 indicated that he wasn't the decision maker. Who
14 responds to this document request? Because don't I
10:55:05 15 have to make a determination, No. 1, as to whether or
16 not the document request has been fulfilled, right?
17 And if not, don't I have to make other decisions,
18 right?

19 MS. McLETCHE: Yes. And you have to order
10:55:21 20 further production -- further production.

21 THE COURT: Right.

22 MS. McLETCHE: Yes.

23 THE COURT: So, but I have to order somebody.
24 And Mr. Honey is not making the decision, so I can't
10:55:27 25 order him.

10:55:28 1 MS. McLETCHE: Well, you can -- you can
2 certainly order the school district --

3 THE COURT: Yes. And so is that the
4 superintendent, Mr. Honey?

10:55:34 5 MR. HONEY: Okay. We have an employee by the
6 name of Cindy Smith Johnson, that her full-time job is
7 records requests.

8 THE COURT: Okay.

9 MR. HONEY: Sometime -- let me finish, your
10:55:45 10 Honor. She's not a lawyer.

11 THE COURT: I understand.

12 MR. HONEY: Yeah, yeah. So then what happens,
13 so a lot of times she'll be -- maybe the -- and it
14 varies from request to request. But she may go out
10:55:56 15 from the various locations of many throughout our large
16 district and gather documents responsive to the
17 request. You know, you know, emails. Because, hey, we
18 need -- we have a records request. They're requesting
19 this. Send us what you have that's responsive to this.

10:56:11 20 She might have to do this to multiple people
21 depending on the breadth of the request. Those come to
22 her. They get reviewed by the legal department. Make
23 sure that no confidentiality -- student confidentiality
24 is violated. FERPA I mentioned earlier and such forth.

10:56:29 25 In regards to this particular case, the

10:56:31 1 final -- the final decision -- the final decision maker
2 is someone above me. My boss is Carlos McDade, the
3 general counsel. I would let him answer in regards to
4 who he speaks with.

10:56:43 5 THE COURT: But, I mean, who -- somebody is
6 the decision maker. And, for example, if I look at the
7 documents, and there might be a valid assertion of a
8 privilege; right?

9 MR. HONEY: Sure.

10:56:56 10 THE COURT: But I need to know who's making
11 that assertion on behalf of the Clark County School
12 District.

13 MR. HONEY: The legal office.

14 THE COURT: Okay. So it's being made by the
10:57:06 15 legal office, not by, I guess, any of the
16 administrators; is that correct?

17 MR. HONEY: I believe that's correct.

18 THE COURT: Okay.

19 MR. HONEY: I mean, it's a legal question
10:57:14 20 whether or not there's a, you know, a privilege.

21 THE COURT: All right.

22 MR. HONEY: Multiple --

23 THE COURT: What about the efforts to perform
24 the searches for public documents? Is that Ms. Cindy
10:57:27 25 Smith Johnson?

10:57:29 1 MR. HONEY: In part. And she works closely
2 with the head of our IT, particularly when they're, you
3 know, requests for emails. But sometimes it's -- you
4 know, if it's a human resources thing, we might just
10:57:39 5 reach out to the head of human resources, Andre Long.

6 THE COURT: Okay.

7 MR. HONEY: And we have another attorney that
8 generally handles open meeting law. I'm not quite sure
9 how I ended up here with Maggie.

10:57:54 10 MS. McLEITCHIE: Mr. Greenberg?

11 MR. HONEY: No.

12 THE COURT: Okay. Continue on, ma'am.

13 MS. McLEITCHIE: Your Honor, I think -- I think
14 we did just summarize what we're requesting. And what
10:58:04 15 I would ask is that Mr. McDade prepare a declaration
16 that details what was searched by whom and when and
17 what responsive documents were yielded.

18 You know, should this Court order further
19 production, which I hope it will, then he can explain
10:58:26 20 that if the documents were previously produced or not.
21 I mean, this is pretty standard practice.

22 THE COURT: Well, that's where I'm going.

23 MS. McLEITCHIE: Yeah.

24 THE COURT: Somebody has to respond to this.

10:58:34 25 MR. HONEY: But where in the law does it say

10:58:35 1 we have to tell them what we searched, who we searched,
2 where we searched. I don't see that in 239. And I
3 don't see that in the case law.

4 THE COURT: But don't you think it's
10:58:44 5 broadly -- I mean, if you look at it, it's implicit
6 that it could be broadly construed. Now,
7 hypothetically, a public entity could sit back and not
8 conduct the appropriate searches. And as a result,
9 documents aren't disclosed, right?

10:58:59 10 MS. McLETCHE: Right. And I think this is --
11 this argument is a red herring.

12 THE COURT: It's not --

13 MS. McLETCHE: Because they have to produce
14 all public records.

10:59:04 15 THE COURT: Yeah.

16 MS. McLETCHE: I'm supposed to be able to go
17 over to CCSD and go look at whatever public records I
18 want to. So the idea that instead Mr. Honey can say
19 I'm going to go think about what I think Maggie really
10:59:15 20 wants. Just give her those. I don't need to tell her
21 what I'm not giving her. It's just -- that's nowhere
22 in the public record.

23 MR. HONEY: I think that so misconstrues
24 anything that was said here or any briefing whatsoever.

10:59:25 25 THE COURT: I'm not necessarily agreeing with

10:59:26 1 that either. But, see, here's the thing, Mr. Honey. I
2 don't mind telling you this.

3 MR. HONEY: That's fine, your Honor.

4 THE COURT: And it has nothing to do
10:59:32 5 specifically with the Clark County School District. I
6 think it's with government in general.

7 MR. HONEY: One of which you work for.

8 THE COURT: Yeah. But what I'm really
9 focusing on is this, there's terms of art that
10:59:44 10 governments use to even classify documents, and how
11 documents are stored, and the like, and how they --
12 their computer systems and their IT and so on. And so
13 in this case, and I think it's a great example, There
14 were certain documents that the newspaper didn't even
11:00:07 15 have a clue as to their identity. And it's not until
16 you start getting documents in do you begin to realize,
17 okay. We have this document here. And this means
18 something, so I want more of this, you know. And so I
19 want to expand my searches because I never knew this
11:00:26 20 type of document existed by this committee or this
21 agency, or whatever. And I think that's kind of what
22 it is.

23 MR. HONEY: Correct. And I think that's why I
24 indicated earlier that I understood their due diligence
11:00:36 25 in making a new request on February 10th that was based

11:00:42 1 on the records that they got -- that they received
2 previously. I get that.

3 THE COURT: Yeah.

4 MS. McLEITCHIE: Your Honor.

11:00:47 5 MR. HONEY: I think everybody does.

6 MS. McLEITCHIE: With regard to the idea that
7 it's not -- doesn't say anywhere in the Public Records
8 Act that you have to say what searches you provide, you
9 have to say what documents you're withholding. I don't
11:00:57 10 mean to belabor that point, but I want to be clear
11 about it.

12 Secondly, we're now in litigation, and should
13 this Court order CCSD to comply, I think it's certainly
14 within the Court's purview to say I need a declaration
11:01:09 15 from somebody with authority because Mr. Honey and
16 Mr. McDade have both taken the position they don't have
17 authority. Somebody with authority --

18 THE COURT: Somebody has authority.

19 MS. McLEITCHIE: -- that will explain how this
11:01:18 20 order has been complied with. I'm tired, your Honor.
21 I've asked --

22 THE COURT: The rubber meets the road.

23 MS. McLEITCHIE: We -- I'm tired of fighting
24 for information from them. We just need to know what
11:01:27 25 they did and how they did it. That's all, your Honor.

11:01:29 1 MR. HONEY: We provided a privilege that said
2 what's withheld.

3 THE COURT: Okay.

4 MS. McLEITCHIE: It didn't list -- I don't want
11:01:34 5 to keep -- your Honor, I will stop.

6 MR. HONEY: What other secret documents are
7 you talking about, though, I guess, is my question.

8 THE COURT: Here's the thing. We don't know;
9 right?

11:01:41 10 MR. HONEY: Because there aren't any other
11 secret documents. There is -- we don't keep a dossier
12 an all of our trustees like the CIA, which they seem to
13 think.

14 THE COURT: Here's my question. But nobody is
11:01:51 15 saying that. For example, all principals, not just
16 those included in District D, how do we know that a
17 principal at another school district -- I mean, at
18 another school within the Clark County School District
19 lodged a complaint against the trustee?

11:02:06 20 MR. HONEY: Because we -- again, if the Court
21 directs us to search 300 additional principals, of
22 course, we're going to comply with that, your Honor.

23 THE COURT: Yeah. But --

24 MR. HONEY: But here's the deal. We searched
11:02:15 25 their direct supervisor, and we searched that person's

11:02:19 1 direct supervisor, and we searched that person's seven
2 supervisors, the trustees. That's why. And that's why
3 we thought it was reasonable to search --

4 THE COURT: Nobody is saying -- understand
11:02:26 5 this. No one is saying it was necessarily
6 unreasonable. I'm not --

7 MR. HONEY: Very good.

8 THE COURT: -- making that judgment there.
9 But I'm saying, hypothetically, based upon what you're
11:02:35 10 saying, there's probably nothing there. But we don't
11 know until the search is conducted, right?

12 MR. HONEY: Correct.

13 MS. McLEITCHIE: Right. Their argument, your
14 Honor. Their argument assumes that every principal
11:02:42 15 necessarily forwards on a report. There may be an
16 issue that a principal got a report in a complaint and
17 didn't properly address it and didn't forward it on.

18 THE COURT: I mean --

19 MS. McLEITCHIE: And --

11:02:52 20 THE COURT: -- there's another example, too.
21 There could be a scenario where a complaint was
22 forwarded to someone that wasn't acted upon.

23 MS. McLEITCHIE: That is correct, your Honor.
24 We may have a principal that didn't act on something.
11:03:02 25 And this idea that --

11:03:03 1 THE COURT: I'm not saying whether it's good
2 or bad. But human nature comes up. But they might
3 have looked at it as being a benign complaint that's
4 not worthy of action.

11:03:10 5 MS. McLETCHE: Right.

6 THE COURT: And nothing was done.

7 MS. McLETCHE: Right.

8 THE COURT: I understand.

9 MS. McLETCHE: And it's up to the public to
11:03:14 10 be able to get access to that information, assess
11 whether or not there was a mistake made.

12 And, your Honor, this idea about whether or
13 not what they did was reasonable isn't the issue. This
14 isn't discovery where you're trying to find relevant
11:03:26 15 documents that are responsive to discovery requests.

16 THE COURT: It's actually much different than
17 that. Reasonable has nothing -- I'm not -- I'm not
18 judging at this point the actions of the Clark County
19 School District. And the only time I would judge that
11:03:40 20 would be this, and this is why I want a

21 managing-speaking agent, someone who's going to make
22 sure that the good-faith disclosure pursuant to the
23 statute is followed. Because there's a reason why at
24 the very beginning I gave the parameters here.

11:03:56 25 NRS 239.012, immunity for good-faith disclosures or

11:04:01 1 refusal to disclose information. Somebody -- a public
2 officer employer has to act in good faith. This is
3 where it meets -- the rubber meets the road. We have
4 to have that. And that's all I'm saying.

11:04:13 5 MS. McLEITCHIE: Understood, your Honor.

6 THE COURT: Somebody has to do that.

7 MS. McLEITCHIE: Understood.

8 THE COURT: Now, I would anticipate as long as
9 my orders are complied with, that specific individual
11:04:24 10 would be complying in good faith. No. 1.

11 No. 2, refusing to disclose information as
12 long as it's logged, and a specific privilege is
13 asserted, probably good faith is met too, right?

14 MR. HONEY: Correct.

11:04:39 15 THE COURT: But you got to disclose it. And
16 then at the end of the day, I'll make a determination
17 as to whether or not that information should be
18 given -- right? -- pursuant to the request. That's
19 all.

11:04:49 20 It's just -- and that's all the democratic
21 principles we focus on that are the basis for this
22 statute, and that's why they have to be followed.

23 MS. McLEITCHIE: Your Honor, I would actually
24 argue that there's already evidence of a lack of good
11:05:02 25 faith. Not because the way he conducted searches was

11:05:04 1 unreasonable. But because Mr. Honey opted to do it in
2 a vacuum. And this is after the delays and responses
3 to the December request.

4 Whether or not his approach was reasonable, I
11:05:13 5 work with public entities all the time and have them
6 structured like, hey, let's start with certain
7 custodians, then we'll follow up with as needed.

8 The problem here --

9 THE COURT: But it's not reasonable. It's
11:05:22 10 good faith. That's a different animal.

11 MR. HONEY: Correct.

12 THE COURT: But go ahead, ma'am.

13 MS. McLEITCHIE: I don't think it was good
14 faith because I think NRS 239.0107 requires them to
11:05:30 15 identify what they're withholding and why. And by
16 making his decisions about where and when and how to
17 search without consultation without us and without
18 disclosing that he was not searching, for example, a
19 hot bed of responsive documents Cedric Cole in the
11:05:47 20 diversity office in my opinion is not good faith.

21 It may be a reasonable way to approach
22 staggering searches. We can agree right now that
23 we're -- that we're going to fight about those
24 documents later. Let's do other searches. But it was
11:05:55 25 not good faith, your Honor.

11:05:57 1 MR. HONEY: Your Honor.

2 MS. McLETCHE: Thank you.

3 MR. HONEY: Your Honor.

4 THE COURT: Mr. Honey, I'm not making that

11:06:01 5 decision today.

6 MR. HONEY: I know. I know. But I just

7 wanted to point one thing out.

8 THE COURT: Yes.

9 MR. HONEY: Is because I'm not sure where

11:06:07 10 you -- where you're standing on the point of --

11 THE COURT: I never stand. I always make a

12 decision. That's all.

13 MR. HONEY: Thank you. Thank you. Of where

14 you -- where you are on the idea that the December

11:06:16 15 request requested investigative materials and

16 investigative report. Because this is such a

17 after-the-fact position --

18 THE COURT: Well, it asks for all complaints;

19 right?

11:06:27 20 MR. HONEY: If petitioner --

21 THE COURT: This was very broad. It asked for

22 all complaints; right?

23 MR. HONEY: If petitioner believed that her

24 December requests were for the investigative report and

11:06:37 25 investigative materials, she would have raised it in

11:06:40 1 the order she prepared in regards to the writ in
2 January.

3 Her order that she prepared didn't say
4 anything about, And, your Honor, order them to provide
11:06:51 5 the Cole report, and provide all the investigative
6 materials, and all of the notes because I requested
7 that in December. She didn't say that. She didn't ask
8 for that because she never asked for it.

9 And this is all after the fact now saying,
11:07:02 10 like, oh, yeah, yeah. Those December requests, oh,
11 yeah, they meant the investigative report. There's
12 nothing in there that says the investigative report.
13 And it's not the district playing coy. It's they chose
14 the words that they wrote.

11:07:14 15 THE COURT: I'm not making the -- what did I
16 say a little earlier?

17 MR. HONEY: I know. I know. Thank you, your
18 Honor.

19 THE COURT: Okay.

11:07:19 20 MS. McLEITCHIE: Your Honor, in the interests
21 of speeding this along, I'm going to let Mr. Honey have
22 the last word. Otherwise, we might be here all day.

23 THE COURT: All right.

24 MR. HONEY: I think, your Honor, you have all
11:07:26 25 the information you need.

11:07:27 1 THE COURT: Yeah. No. 1, I'm going to -- it's
2 going to be my determination I have jurisdiction over
3 this matter. And it's based upon the fact that the
4 initial petition was filed in this department. And
11:07:40 5 specifically it was a public information request as it
6 pertains to Trustee Child.

7 And along the way, the petitioner has, as a
8 result of obtaining information as a result of its
9 initial request, it's essentially fine tuned the
11:08:03 10 request for specific documents that are -- that clearly
11 come up the purview of the law.

12 Secondly, regarding the full searches in the
13 conclusion, I'm going to grant that request. I'm going
14 to -- and this is how we're going to do it. First and
11:08:27 15 foremost, the email searches, I will grant those.

16 And I thought the case involving former
17 governor was pretty insightful there as far as emails
18 are pretty much under the public records. And so I'm
19 going to grant that.

11:08:49 20 Also all trustees. I understand that that
21 potentially has been done already. If it has, you can
22 respond accordingly; right?

23 MR. HONEY: Correct.

24 THE COURT: Regarding Cedric Cole and all
11:09:04 25 other diversity and affirmative action program staff,

11:09:07 1 I'm going to permit that. It's my understanding it's
2 six to ten. Potentially, there could have been
3 complaints made regarding the trustee that were never
4 addressed. And I think that's the thrust and purpose
11:09:19 5 of that. I'm going to allow that.

6 Now, understand this, if there's any specific
7 privileges that might apply, assert the appropriate
8 proof. Please identify the document. Just as
9 important, too, if it comes to this, I'm going to
11:09:35 10 review all the documents in camera so I can make the
11 ultimate determination.

12 The next one regarding email addresses for
13 everyone who has been sent or received responsive
14 documents, are you simply requesting that those email
11:09:55 15 addresses be searched?

16 MS. McLEITCHIE: Yes. That might have been
17 typo. I meant to search the emails of anyone who had
18 been involved in some of the documents we had
19 previously gotten, your Honor.

11:10:04 20 THE COURT: And it doesn't appear to me that
21 that's a significant request because there appear to be
22 not many people cc'd. But I'm going to permit that
23 one.

24 MR. HONEY: And, your Honor, I would just add,
11:10:16 25 we've already done it for February, the production in

11:10:18 1 regards to the February request. And our position was
2 simply that the December request, if she wanted that,
3 she should have asked for that in her February order.

4 THE COURT: I understand.

11:10:27 5 MR. HONEY: Okay.

6 THE COURT: I do. And then as far as request
7 B, I'm going to permit that.

8 You know what I want you to do, Mr. Honey, and
9 I realize this will take time. That's why I do realize
11:10:41 10 that under normal circumstances, it would be very easy
11 for a public entity to respond to requests for
12 documents, but this is not a normal scenario. And what
13 I mean by that is this, it might take some time. But
14 there's two things I want you to do and -- really three
11:10:56 15 things.

16 No. 1, I want a finalized log of all documents
17 that have been produced, No. 1, so I can look at it in
18 one log.

19 Secondly, if there's any claims of privilege,
11:11:17 20 and the documents aren't produced, I want the document
21 adequately described. I want -- I want a privilege --
22 I want the privilege log to include those documents for
23 inspection by me, so I can determine whether or not
24 it's an appropriate privilege, right?

11:11:34 25 MR. HONEY: Okay. But you don't mean

11:11:36 1 documents that aren't responsive to the request? If we
2 search myself, and we get --

3 THE COURT: Yeah.

4 MR. HONEY: -- a thousand pages of emails, and
11:11:43 5 900 -- you don't want the -- 990 aren't responsive to
6 what she sought, we don't put the 990.

7 THE COURT: No.

8 MR. HONEY: Okay.

9 THE COURT: You're not requesting that; are
11:11:50 10 you?

11 MS. McLEITCHIE: No, your Honor.

12 THE COURT: Okay.

13 MR. HONEY: I didn't think so either. I was
14 being clear. Thank you.

11:11:55 15 THE COURT: And last, but not least, I want
16 some form of certification or someone to attest to the
17 accuracy of the documents and searches that were
18 conducted.

19 MR. HONEY: Can you repeat that? Accuracy of
11:12:15 20 what? Searches or documents?

21 THE COURT: Both.

22 MR. HONEY: Both. Okay, thank you.

23 THE COURT: Something so I know that, Okay,
24 somebody has to produce this. And maybe it's Cindy
11:12:24 25 Smith Johnson. I'm not sure.

11:12:30 1 And, ma'am, can you prepare an order?

2 MS. McLEITCHIE: Absolutely, your Honor. One

3 follow-up question. When you say search for responsive

4 documents, I don't actually think that there's anything

11:12:40 5 that the February request doesn't cover that's in the

6 December request. But just so we're clear, either the

7 December request or the February request, responsive

8 documents to any of those requests; correct, your

9 Honor?

11:12:50 10 THE COURT: Correct.

11 MS. McLEITCHIE: Thank you, your Honor.

12 THE COURT: As they've been fine tuned.

13 MS. McLEITCHIE: And is your Honor going to

14 address whether or not the Cole report and the

11:12:57 15 associated documents that are currently on the log fall

16 within any valid claim of confidentiality today, your

17 Honor?

18 MR. HONEY: I'm sorry, Maggie. Can you repeat

19 that?

11:13:06 20 THE COURT: I wasn't requested to do that, was

21 I?

22 MR. HONEY: I'm sorry. Will you repeat that?

23 I apologize.

24 MS. McLEITCHIE: I was asking whether or not --

11:13:11 25 so you're going to order -- you are ordering -- are you

11:13:14 1 ordering production of the documents that are currently
2 on the privilege log with regard to the Cole report and
3 associated documents?

4 THE COURT: What do you mean by that, ma'am?

11:13:24 5 MS. McLEITCHIE: So on the privilege log, it
6 sounds like they have -- they have a deadline they're
7 going to have to produce documents and produce a log.
8 And I'm sorry if I missed this, your Honor. And
9 they're supposed -- they're supposed to conduct
11:13:35 10 searches. But you've told them that if there's a
11 specific privilege, they can ID the document and put it
12 on the log --

13 THE COURT: Right.

14 MS. McLEITCHIE: -- with regard to the Cole
11:13:42 15 report, and the -- and some associated reports.
16 They've already done that. And I'm wondering if you're
17 going to order production of those documents that are
18 currently on the log, the one that we were going over
19 earlier, your Honor.

11:13:54 20 MR. HONEY: It was Petitioner's Exhibit E, our
21 privilege log with the date --

22 THE COURT: I assume that had been produced;
23 right?

24 MS. McLEITCHIE: No. The Cole report has not
11:14:01 25 been produced. None of these items that currently

11:14:04 1 appear on the privilege log that -- is it Exhibit E?

2 Thank you, Mr. Honey.

3 MR. HONEY: Yes.

4 MS. McLEITCHIE: But --

11:14:11 5 MR. HONEY: If I can go through it. So pages
6 34 to 41. Have you found the exhibit, your Honor?

7 THE COURT: I think. Yeah, I have it.

8 MR. HONEY: Okay. See highlighted Bates No.
9 pages 034 to 041?

11:14:22 10 THE COURT: Yes.

11 MR. HONEY: Okay. That's an internal draft
12 memorandum. You know, has questions marks on it. It's
13 a draft. We withheld that for the privileges that
14 we've asserted in this case. And I think Maggie is
11:14:35 15 asking whether or not you're going to order us to
16 produce that. Or if you want us to assert privileges
17 in regards to that.

18 MS. McLEITCHIE: Not just that one. It's 34
19 through 41 and the ones that appear on the next page as
11:14:46 20 well.

21 MR. HONEY: Correct.

22 MS. McLEITCHIE: All the way to 62.

23 MR. HONEY: Though, I would say --

24 THE COURT: Is this it right there?

11:14:49 25 MS. McLEITCHIE: Yes. Correct, your Honor.

11:14:51 1 May we both approach?

2 MR. HONEY: We better.

3 THE COURT: Yes. We're still on the record.

4 Now, I look at this document.

11:15:05 5 MS. McLEITCHIE: It's Exhibit E. And it's the
6 privilege log that says March 21, 2017, at the bottom.

7 And it's Bates Stamp CCSD-CM0053.

8 THE COURT: All right.

9 MR. HONEY: So I think what Maggie's question
11:15:23 10 is is whether or not you were going to order us to
11 produce this internal draft memo that CCSD has
12 identified. It's pages 34 to 41 that has been
13 withheld.

14 THE COURT: Do I have it?

11:15:35 15 MR. HONEY: You have not seen that. No.

16 THE COURT: Okay.

17 MS. McLEITCHIE: So the plan is, your Honor --
18 we'll go back to counsel table.

19 THE COURT: Okay. I understand.

11:15:41 20 MS. McLEITCHIE: Now, I think I understand what
21 you're -- what you're -- what you'd like in this order.
22 You are going to -- all the documents that appear on
23 the privilege log, including on this privilege log, are
24 to then be submitted in camera. And you're going to
11:15:55 25 review them with the revised privilege log that's one

11:15:58 1 omnibus complete privilege log?

2 THE COURT: Yeah. Because it makes it easier
3 for me to review.

4 MS. McLEITCHIE: Understood. And so at this
11:16:04 5 time you're not ordering production of any documents
6 that have been withheld. You're ordering additional
7 searches, a log, and then your Honor will do an
8 in camera review.

9 THE COURT: Right.

11:16:13 10 MS. McLEITCHIE: Thank you, your Honor.

11 THE COURT: And more importantly, and because
12 we haven't really addressed this. We'll -- I think
13 what's important to do is how long do -- how long do
14 you think it will take to prepare the final log and
11:16:29 15 conduct the new searches or additional searches?

16 Because I want to get all this done at one time. And
17 what I mean by that is this, I don't want to -- because
18 we haven't discussed these documents individually and
19 what you anticipate they are. And I haven't had a
11:16:45 20 chance to review them.

21 So, hypothetically, I might look at them and
22 say, Look, we can redact something. Or I might just
23 say, Look, they should be produced. Or I might say
24 there is a privilege log that applies. But I don't
11:16:59 25 know yet because I haven't seen the documents yet.

11:17:01 1 MS. McLETCHE: Understood, your Honor.

2 THE COURT: So I want to have another time to
3 meet and review the asserted privileges as it relates
4 to specific documents.

11:17:11 5 MS. McLETCHE: Understood, your Honor. And,
6 obviously, we need to hear from Mr. Honey about when it
7 will happen. I will point out, again, that we've
8 been -- we've been trying to get this information since
9 December. And we are required to expedite this
11:17:22 10 litigation.

11 THE COURT: I understand.

12 MR. HONEY: I would ask for a minimum of three
13 weeks. There's a lot of moving parts involved. The
14 legislative session as well. The reorganization.
11:17:33 15 Sometimes it's hard to get to higher level people,
16 whether or not they're even in the county on any given
17 day.

18 MS. McLETCHE: So three weeks from today,
19 your Honor? I would request a shorter time period,
11:17:43 20 but ...

21 THE COURT: Sir. Can you get it done, and we
22 can have a status check in three -- and in two weeks I
23 need to get the documents to review in camera.

24 MR. HONEY: If you schedule the hearing for
11:17:57 25 four weeks, I can get the records to you in three

11:18:01 1 weeks.

2 MS. McLEITCHIE: Your Honor, I would ask two
3 weeks, and a week after that.

4 THE COURT: Realistically.

11:18:08 5 MR. HONEY: I'm being realistic on my time.

6 THE COURT: You're getting the searches,
7 ma'am. I want to make sure --

8 MS. McLEITCHIE: I appreciate that, your Honor.

9 THE COURT: Okay. This is what we'll do.

11:18:19 10 Ma'am, prepare an order.

11 MS. McLEITCHIE: Yes, ma'am -- yes, sir.

12 THE COURT: Okay. And, No. 1, I granted your
13 request. No. 2, the request shall be complied with
14 within three weeks from today.

11:18:31 15 And we're going to have -- as part of the
16 order, too, any documents where there's a claim of
17 privilege, along with the final privilege log those
18 documents should be submitted in written form for my
19 review. And then in four weeks, we're going to have a
11:18:52 20 hearing. And I'm going to make a determination as to
21 whether those documents are produced or not. You got
22 all that?

23 MS. McLEITCHIE: I do, your Honor.

24 THE COURT: Okay.

11:19:02 25 MS. McLEITCHIE: If time permits, three days

11:19:04 1 before the hearing, may I provide a response to their
2 privilege log?

3 THE COURT: Absolutely, absolutely.

4 MS. McLEITCHIE: Sure.

11:19:09 5 THE COURT: Absolutely. And I'll read it,
6 ma'am.

7 Even if you get it to me the day before and
8 you let me know, and you drop a courtesy copy, I
9 promise I'll read it for you.

11:19:19 10 MS. McLEITCHIE: Thank you, your Honor. I
11 appreciate that very much.

12 THE COURT: All right.

13 MS. McLEITCHIE: I guess, it depends how long
14 this log is.

11:19:23 15 THE COURT: I understand. And it might not be
16 much different than what we have right now. We just
17 don't know.

18 MR. HONEY: I agree.

19 THE COURT: Prepare an order, ma'am.

11:19:30 20 THE COURT CLERK: 30-day continuance?

21 THE COURT: Yes.

22 THE COURT CLERK: June 6 at 9:00 a.m.

23 THE COURT: You got that?

24 MS. McLEITCHIE: Yes.

11:19:38 25 THE COURT: Everyone, enjoy your day.

11:19:39 1 MS. McLETCHE: Thank you very much, your
2 Honor.

3 MR. HONEY: You too.

4 MS. McLETCHE: I appreciate it.

11:19:42 5 MR. HONEY: You too, your Honor. Thank you.

6 THE COURT: Okay.

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(Proceedings were concluded.)

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REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE
TIME AND PLACE INDICATED, AND THAT THEREAFTER SAID
STENOGRAPHY NOTES WERE TRANSCRIBED INTO TYPEWRITING AT
AND UNDER MY DIRECTION AND SUPERVISION AND THE
FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE AND
ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF
NEVADA.

PEGGY ISOM, RMR, CCR 541

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March 21, 2017

Again, while time is of the essence, the Review-Journal remains willing to work with you to discuss narrowing or sequencing searches. Further, the Review-Journal of course does not object to responsive documents being produced in redacted form, consistent with the Court's February 23, 2017 Order.

Regards,



Margaret A. McLetchie

cc: file; Adam Honey (via email only)

EXHIBIT Y

pharan@nvlitigation.com

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Friday, March 24, 2017 11:13 AM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Jeanne-Marie Pochert Hanna; Susan Gerace
Subject: LVRJ v CCSD 2nd Supp Priv Log
Attachments: 2nd Supplemental Priv. Log.pdf

Maggie,

Attached please find a 2nd Supplemental Privilege Log. Documents pertaining to the current records request of 2/10/17 are in bold. Note that CCSD is not under any Order of the court relative to the February 10, 2017, records request and that CCSD's asserted privileges as to the 2/10 request are pending per the current briefing schedule regarding the same. CCSD waives no rights by pro-offering the attached log while under no court order to do the same.

I anticipate addressing your request for expanded searches Tuesday March 28th.

Sincerely,

Adam Honey
Assistant General Counsel
Clark County School District

CLARK COUNTY SCHOOL DISTRICT
LVRJ v. CCSD - Case No. A-17-750151-W

*Note of clarification: All individuals previously identified as "Adult" are CCSD employees.

Bates No.	Date	Author	Recipient	Document Type/ Subject Matter	Basis for Withholding
001-014, 016-020, 022-023	As stated on docs	Various CCSD employees (redacted), Superintendent Pat Skorkowsky, Isaac Stein, Linda Burns	Pat Skorkowsky Various CCSD admini- strators (redacted)	E-Mails, Kevin Childs	NRS 239.010; NRS 386.350; CCSD Regulation 1212; 4110; safety and well-being of employees (fear of retaliation) and inherent chilling effect if names of individual employees are released
024-025, 027-029, 031-033	As stated on docs	Various CCSD employees (redacted) and members of general public	Board of Trustees CCSD	E-Mails and correspondence	NRS 239.010; NRS 386.350; CCSD Regulation 1212; 4110; safety and well-being of employees (fear of retaliation) and inherent chilling effect if names of individual employees and general public are released
034-041	10/5/16	Cedric Cole	Internal Draft	Confidential and Internal Investigative Memorandum	See attached correspondence dated March 13, 2017, for basis of withholding
042-048	1/28/16, 2/5/16, 2/9/16, 2/10/16, 2/26/16, 3/23/16, 3/30/16, 4/9/16, 9/7/16, 9/13/16, 9/23/16, 9/29/16 &	Cedric Cole	Internal Draft	Confidential and Internal Investigative Notes (typed)	See attached correspondence dated March 13, 2017, for basis of withholding

CCSD-COM 053

March 21, 2017

	10/4/16				
049-053	9/7/16, 9/13/16, 9/23/16, 9/29/16 & 10/14/16	Cedric Cole	None	* Confidential and Internal Investigative Notes (handwritten)	See attached correspondence dated March 13, 2017, for basis of withholding
054-057	10/19/16	Cedric Cole	Pat Skorkowsky Board of Trustees	Confidential Investigative Memorandum	See attached correspondence dated March 13, 2017, for basis of withholding
058-062	10/11/16, 10/24/16, 1/26/17 & 3/17/17	Cedric Cole	None	Confidential and Internal Investigative Notes (handwritten)	See attached correspondence dated March 13, 2017, for basis of withholding

*The handwritten notes were previously reduced to typewritten notes of the same dates contained in bates 042-048.

Page #	Identity	Redactions
01	Adult 1	-Identity, school and position of writer -Identity of supervisor and one other administrator specifically identified
02	Adult 2	-Identity and school of person making request -Identity of persons (2) forwarding request
03	Adult 3	-School event occurred at -Identity of persons (2) providing information and positions; Identity of teacher -Identity of writer
04	Adult 3	-Identity of schools (3)

March 21, 2017

		<p>School 1 – Identity of supervisor and person and position that was to be notified</p> <p>School 2 – Identity and position of person reporting and person reported too</p> <p>School 3 (same as page 03) – Identity of persons (2) providing information and positions; Identity of teacher; Identity of persons (3) information provided too</p>
05	Adult 3	<p>Identity of schools (2)</p> <p>School 1 - Room at school event occurred; Identity of person information provided too</p> <p>School 2- Identity and position of person providing information; Room at school event occurred and teacher; Identity of person information provided too</p>
06-07	Adult 4	<p>-Identity of writer</p> <p>-Specific elected position referenced in bullet point 3 and identity of person that ran against writer; identity of person complaint made too</p>
08-09	Adults 5 and 6	<p>Top email – Identity of writer (Adult6) and recipient of email (Adult5)</p> <p>Bottom email (same as pages 10-11) – Identity of writer (Adult5); Specified elected position referenced in bullet point 2 and identities of persons running for that position</p>
10-11	Adult 5	<p>Same as “Bottom email” on pages 08-09</p> <p>– Identity of writer (Adult5) and person copied (Adult6); Specified elected position referenced in bullet point 2 and identities of persons running</p>

March 21, 2017

		for that position
12-13	Adult 7	Top email – Identity of recipient Bottom email (same as pages 14-15) – Identity of writer
14-15	Adult 7	Same as “Bottom email” on pages 12-13 – Identity of writer
16-17	Adult 8	Top email – Identity of recipient and copied to Bottom email (same as page 18-19) – Identity of writer
18-19	Adult 8	-Identity of writer and copied to
20	N/A	-Reason for Mr. Stein not being in attendance (not connected to the substance of this matter)
22	N/A	Same as page 20
24-25	Adult 9	-School event occurred at -Identity of coach and trainer -Identity of writer
27-28	Former Teacher 1	-Identity of writer -Identity of school -Superintendent’s e-mail address
29	Parent 1	-Identity of parent
31	Public member 1	-Identity of writer
32	Public member 2	-Identity of writer
33	Public member 3	-Identity of writer

March 21, 2017

OFFICE OF THE GENERAL COUNSEL

5100 WEST SAHARA AVENUE • LAS VEGAS, NV 89146 • (702) 799-5373 • FAX (702) 799-5505



CLARK COUNTY
SCHOOL DISTRICT

BOARD OF SCHOOL TRUSTEES

Deanna L. Wright, President
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Carolyn Edwards, Clerk
Lola Brooks, Member
Kevin L. Child, Member
Erin E. Cranor, Member
Chris Garvey, Member

Pat Skorkowsky, Superintendent

March 13, 2017

Via U.S. Mail and E-mail

Maggie McLetchie, Esq.
McLetchie Shell
Attorneys at Law
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101

Re: LVRJ Public Records Requests re Trustee Kevin Child

Dear Ms. McLetchie:

This letter responds to your recent email correspondence dated March 3, 2017.

A. Documents Already Provided

With regard to the public records request from the Las Vegas Review Journal dated December 5, 2016 (supplemented on December 9), CCSD has provided responsive documents. On February 3, 2017 the District provided you with initial documents Bates labeled 001 to 036. On February 8, 2017, the District provided you with more documents Bates labeled 001 to 023 (which were later revised to include less redactions on February 10 and again on February 13). The District also produced additional documents Bates labeled 024 to 033 and a privilege log on February 13. Finally, pursuant to the Court's Order, on February 24, 2017 the District provided you with revised redacted documents Bates labeled 001 to 033 (and a revised page 1 on February 27).

With regard to the subsequent public records request from the Las Vegas Review Journal dated February 10, 2017, CCSD provided 27 pages of responsive documents on March 3, 2017. Along with the documents, the District provided a letter that set forth privileges and claims of confidentiality.

B. Search Information

In your March 3 letter, you have requested that CCSD provide you with "search information." This is not required by the Nevada public records law. However, as a good faith attempt to help resolve this dispute, and without waiving the right to object to any subsequent requests for information regarding CCSD's search process, CCSD has searched for the terms "Kevin Child" and "Trustee Child" in the following Interact email boxes: Superintendent Patrick Skorkowsky; Dr. Mike Barton (Chief Academic Officer); each of the School Associate Superintendents; and each of the school principals in Trustee Kevin Child's District (which is "District D"). Given that the District employs over 40,000 employees and does not have a global search engine/ability, the District searched each of the above-identified employee's email accounts individually. The District believes that the extensive individual searches already performed are

Ltr to Ms. McLetchie
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the most likely location for responsive documents and that it has complied with the Nevada public records law in this respect.

C. Remaining Information

You have also asked CCSD to disclose what additional documents are being withheld and why. To the best of our knowledge, the only information remaining that has not been provided is internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination, harassment, or hostile work environment which is confidential and not required to be disclosed under the public records law.

CCSD hereby asserts the following privileges and claims of confidentiality with regard to that remaining information. CCSD reserves the right to assert additional privileges or claims of confidentiality, if necessary, at a later date.

Pursuant to NRS 239.010, public records must be available to inspection unless there is a statutory exception or "unless otherwise declared by law to be confidential."

1. Discrimination and Harassment Under Federal Law

Internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination or harassment is confidential and not required to be disclosed under the public records law. Federal statutes concerning discrimination and harassment as well as the regulations and case law interpreting those statutes provide ample authority for this proposition.

(a) Legal Standard for Discrimination and Harassment

It is an unlawful employment practice for an employer to discriminate against an individual with regard to the terms and conditions of that employment on the basis of the employee's race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a)(1). In Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986), the Supreme Court held that sexual harassment constitutes sex discrimination in violation of Title VII. Courts have recognized different forms of sexual harassment. In "quid pro quo" cases, employers condition employment benefits on sexual favors. In "hostile work environment" cases, employees work in offensive or abusive environments. Ellison v. Brady, 924 F.2d 872, 875 (9th Cir. 1991).

The standard for employer liability for hostile work environment harassment depends typically on whether or not the harasser is the victim's supervisor. An employer is vicariously liable for a hostile work environment created by a supervisor. In Vance v. Ball State University, 133 S. Ct. 2434 (2013), the Supreme Court rejected in part the EEOC's definition of "supervisor." The Court held that an employee is a "supervisor" if the employer has empowered that employee "to take tangible employment actions against the victim, i.e., to effect a 'significant change in employment status, such as hiring, firing,

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failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.” The Court stated that an employer is liable for hostile work environment harassment by employees who are not supervisors if the employer was “negligent in failing to prevent harassment from taking place.” In assessing such negligence, the Court explained, “the nature and degree of authority wielded by the harasser is an important factor to be considered in determining whether the employer was negligent.” Also relevant is “[e]vidence that an employer did not monitor the workplace, failed to respond to complaints, failed to provide a system for registering complaints, or effectively discouraged complaints from being filed.”

“[A] hostile environment exists when an employee can show (1) that he or she was subjected to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, (2) that this conduct was unwelcome, and (3) that the conduct was sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” Ellison, 924 F.2d at 875-76.

“[E]mployers are liable for failing to remedy or prevent a hostile or offensive work environment of which management-level employees knew, or in the exercise of reasonable care should have known.” Dawson v. Entek Int’l, 630 F.3d 928, 940 (9th Cir. 2011) (alteration in original) (quoting Ellison v. Brady, 924 F.2d 872, 881 (9th Cir. 1991)).

It is well-established that “notice of the sexually harassing conduct triggers an employer’s duty to take prompt corrective action that is reasonably calculated to end the harassment.” Swenson v. Potter, 271 F.3d 1184, 1192 (9th Cir. 2001) (internal quotation marks omitted). Once an employer is on notice of a sexual harassment complaint, it must conduct an investigation. Id. at 1193.

“Employers should impose sufficient penalties to assure a workplace free from sexual harassment. In essence, then . . . the reasonableness of an employer’s remedy will depend on its ability to stop harassment by the person who engaged in harassment.” Ellison, 924 F.2d at 882. Employers therefore have a duty to undertake a remedy that is likely to be effective. Fuller v. City of Oakland, 47 F.3d 1522, 1528-29 (9th Cir. 1995). “In evaluating the adequacy of the remedy, the court may also take into account the remedy’s ability to persuade potential harassers to refrain from unlawful conduct.” Ellison, 924 F.2d at 882.

(b) Liability for the Conduct of Non-Employees

The Ninth Circuit has also held that an employer may be held liable for sexual harassment on the part of a private individual, such as the casino patron, where the employer either ratifies or acquiesces in the harassment by not taking immediate and/or corrective actions when it knew or should have known of the conduct. Folkerson v. Circus Circus Enterprises, Inc., 107 F.3d 754, 756 (9th Cir. 1997); see also Trent v. Valley Electric Ass’n, Inc., 41 F.3d 524, 526 (9th Cir. 1994) (where employer hires outside trainer to train its employees, a function often carried out by company supervisors, and outside trainer harasses employees, company may be liable under Title VII); Powell v. Las Vegas Hilton Corp., 841 F. Supp. 1024, 1028 (D. Nev. 1992) (where employer egregiously mishandled employees repeated complaints about harassment from casino customers, employer either ratified or was complicitous in the harassment);

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29 C.F.R. § 1604.11(e) (employers may be liable for sexual harassment perpetrated by nonemployees "in the workplace, where the employer . . . knows or should have known of the conduct, and fails to take immediate and appropriate corrective action.").

(c) Investigation Duties and Confidentiality

United States Equal Employment Opportunity Commission ("EEOC") has stated that employers are obligated to investigate and address instances of harassment, including sexual harassment. The EEOC also states that employees who are subjected to harassment frequently do not complain to management due to fear of retaliation. See U.S., Equal Employment Opportunity Commission, EEOC Notice No. 915.002, Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, at § V(D)(1) re Failure to Complain (dated 6/18/99, in effect until rescinded or superseded); see also Faragher v. City of Boca Raton, 118 S. Ct. 2275 (1998).

Regarding confidentiality of an investigation, EEOC states that "[a]n employer should make clear to employees that it will protect the confidentiality of harassment allegations to the extent possible. An employer cannot guarantee complete confidentiality, since it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, information about the allegation of harassment should be shared only with those who need to know about it. Records relating to harassment complaints should be kept confidential on the same basis." See EEOC Notice No. 915.002, at § V(C)(1) re Confidentiality (emphasis added).

"To assure employees that such a fear is unwarranted, the employer must clearly communicate and enforce a policy that no employee will be retaliated against for complaining of harassment." See EEOC Notice No. 915.002, at § V(D)(1) re Failure to Complain.

In a case involving the Freedom of Information Act, the Ninth Circuit recognized that FOIA Exemption 6, 5 U.S.C.S. § 552(b)(6), permits the redaction of information that could be used to identify the authors of communications sent to a federal agency complaining about violations of law. Prudential Locations LLC v. United States Dep't of Housing and Urban Dev., 739 F.3d 424, 429-34 (9th Cir. 2013). The Ninth Circuit found that the authors had a cognizable personal privacy interest under Exemption 6 (and relevant factors included the agency's confidentiality policy). The court also found that the authors faced a significant risk of harassment, retaliation, stigma, or embarrassment if their identities were revealed; and there was no cognizable public policy interest that would have been served by revealing their identities, so revealing their identities would have constituted a clearly unwarranted invasion of personal privacy under Exemption 6. Id.; see also Cameranesi v. United States Dep't of Defense, 839 F.3d 751 (9th Cir. 2016) (the names of foreign students and instructors were exempt from disclosure under FOIA, 5 U.S.C.S. § 552(b)(6), because the disclosure of those names would constitute a clearly unwarranted invasion of personal privacy; the evidence demonstrated that disclosure of the identities of the foreign students and instructors could give rise to harassment, stigma, or violence as a result of their association with the United States, exactly the sort of risks that courts have recognized as nontrivial).

(d) **Application of Law to the Facts**

Here, as Trustee Child is a corporate officer and not subject to internal employer corrective action, the only manner in which the District may act to fulfill its obligation to protect its employees against potential retaliation is to withhold the identity of the employees and withhold the internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination or harassment. The District and public have an interest in a strong system to address complaints of discrimination and harassment that encourages reporting without fear of retaliation. Based upon the above federal law and EEOC guidance related to discrimination and harassment, and a balancing of the interests in this case, the investigatory information should remain confidential. See also NRS 239.010; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

2. **CCSD Policy and Regulation 4110**

CCSD Policy and Regulation 4110 sets forth the procedures and requirements related to CCSD employment discrimination, harassment, and sexual harassment of employees. These procedures are based upon the federal authorities described above.

Of particular note, CCSD Regulation 4110(X) states: "All information gathered by the District in the course of its investigation of an allegedly unlawful discriminatory practices will remain confidential except to the extent necessary to conduct an investigation, resolve the complaint, serve other significant needs, or comply with law."

The CCSD Board of Trustees are allowed to promulgate reasonable and necessary regulations in support of its mission. See NRS 386.350 ("Each board of trustees is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the public schools . . . are established and to promote the welfare of school children, including the establishment and operation of schools and classes deemed necessary and desirable.")

Therefore, the internal information received or gathered by the District in the course of investigating the alleged discriminatory conduct of Trustee Child should be confidential under CCSD Regulation 4110.

3. **Deliberative Process Privilege**

The information is also not required to be disclosed because it is protected under the deliberative process privileged. DR Partners v. Board of County Commissioners of Clark County, 116 Nev. 616, 621 (2000).

The Nevada Supreme Court has recognized an "executive privilege" in Nevada in determining whether public records are "confidential by law." "The deliberative process or 'executive' privilege is one of the traditional mechanisms that provide protection to the deliberative and decision-making processes of the executive branch of government. . . ." DR Partners, 116 Nev. at 622. This privilege "shields from mandatory disclosure 'inter-agency or intra-agency memorandums or letters which would not be available

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by law to a party other than an agency in litigation with the agency[.]” *Id.* citing Paisley v. C.I.A., 712 F.2d 686, 697 (D.C. Cir. 1983). It also permits “‘agency decision-makers to engage in that frank exchange of opinions and recommendations necessary to the formulation of policy without being inhibited by fear of later public disclosure,’ 712 F.2d at 698, and, thus, protects materials or records that reflect a government official’s deliberative or decision-making process.” *Id.* at 623 citing EPA v. Mink, 410 U.S. 73, 89 (1973). “To qualify for non-disclosure under this privilege, the requested documents must be both predecisional and deliberative.” DR Partners, 116 Nev. at 623 citing NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151-54 (1975) and Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975).

Here, the internal information obtained in the investigation of alleged discrimination or harassment was used as part of the deliberative and decision-making process of District executives. It was both predecisional and deliberative in that it was used to help determine what, if any, actions would be taken with regard to Trustee Child. The information was used as part of the basis for the December 5, 2016 “Guidelines for Trustee Visit” memorandum. As such, the public records law should not require disclosure of that information.

4. Nonrecord Materials

NAC 239.051 provides that certain materials of a local government entity are “nonrecord materials.” Those materials are not public records and are not required to be disclosed. Nonrecord materials “means published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity.” NAC 239.051 (emphasis added).

A similar definition is applied to state agencies under NAC 239.705. The phrase official state record and record “does not include nonrecord materials. Nonrecord materials include, without limitation, published materials printed by a governmental printer, informal notes, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a state agency.” NAC 239.705(2) (emphasis added).

To the extent that any remaining information constitutes worksheets, drafts, informal notes, or ad hoc reports, it falls within the definition of “nonrecord materials” it is not required to be produced. These NAC provisions are found in Chapter 239 which pertains to public records, and should be applied in this case.

5. Employee Personnel Information

The public records law does not require the release of confidential employee personnel information. See NRS 239.010; NRS 386.350; NAC 284.718; NAC 284.726; CCSD Regulation 1212; CCSD Regulation 4311; CCSD Regulation 4110; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

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Of particular note, NAC 284.718 and NAC 284.726 explicitly protects the employment personnel files of state agencies. Local government entities are entitled to the same level of protection.

6. **Personally Identifiable Student Information**

To the extent that the documents contain personally identifiable student information it is confidential under the Family Educational Rights and Privacy Act (FERPA). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; NRS 392.029.

7. **Personal Information**

Any personal information in the remaining documents is also not a public record. See NRS 239.010; NAC 239.051; NAC 239.101; NRS 239B.030(2); NRS 239B.040(1); NRS 603.070; NRS 603A.210; Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990).

8. **Donrey Balancing Test**

Finally, the Supreme Court of Nevada has recognized that "any limitation on the general disclosure requirements of NRS 239.010 must be based upon a balancing or 'weighing' of the interests of non-disclosure against the general policy in favor of open government." DR Partners v. Board of County Comm'rs, 116 Nev. 616, 622 (2000) citing Donrey, 106 Nev. at 635-36. A government entity cannot meet its burden by "voicing non-particularized hypothetical concerns." DR Partners, 116 Nev. at 628.

Here, CCSD's interest in investigating employees' reports of , and protecting them from, a hostile work environment, intimidation, and retaliation clearly outweighs the public's interest in obtaining access to internal investigatory information regarding the alleged conduct of Trustee Kevin Child. Revealing the internal investigatory information would be detrimental to the work environment and well-being of employees and create a chilling effect on future reporting. The fears of hostile work environment, intimidation, and retaliation are not hypothetical or speculative. The fears are stated expressly by some employees.

The purpose of the public record law is to foster democratic principles. CCSD believes the public's interest in access to documents is to examine the functions of a public agency, and while this is an important interest, it may be accomplished with the documents that have already been provided. The public's interest in reading internal investigation files is outweighed under Donrey by the District's need to meet its statutory duty to have a confidential system for internal investigation of alleged employment issues, enabling it to discover and correct problems in the workplace, while protecting employees who report allegations of unwelcome conduct.

Sincerely,



Carlos L. McDade
General Counsel

EXHIBIT Z

pharan@nvlitigation.com

From: maggie
Sent: Friday, March 24, 2017 12:27 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; Carlos L. McDade; Jeanne-Marie Pochert Hanna; Susan Gerace
Subject: Re: LVRJ v CCSD 2nd Supp Priv Log

Adam, Thank you very much for your letter and revised log. If at all possible, I would like to know whether you will agree to the proposed additional custodian / source searches by close of business Monday. I understand you may need a bit of time to consider the specifics and discuss with Carlos but I have not even heard back as to the general question I posed - i.e. will CCSD agree to any additional searches? That answer I would like today so I can limit issues for the Court as much as possible. As you know, while we have always been open to working with you on the scope of the searches (an invitation that has never been accepted; you instead unilaterally decided where to search and how to limit the request), it is my view that these searches should have been conducted in response to my 2/10 letter. Thanks in advance.

Maggie McLetchie
McLetchie Shell, LLC
701 E. Bridger Ave., Suite 520
Las Vegas, NV 89101
(702) 728-5300

> On Mar 24, 2017, at 11:13 AM, Adam Honey <ahoney@interact.ccsd.net> wrote:

>

> Maggie,

>

> Attached please find a 2nd Supplemental Privilege Log. Documents pertaining to the current records request of 2/10/17 are in bold. Note that CCSD is not under any Order of the court relative to the February 10, 2017, records request and that CCSD's asserted privileges as to the 2/10 request are pending per the current briefing schedule regarding the same. CCSD waives no rights by pro-offering the attached log while under no court order to do the same.

>

> I anticipate addressing your request for expanded searches Tuesday March 28th.

>

> Sincerely,

>

> Adam Honey

> Assistant General Counsel

> Clark County School District

> <2nd Supplemental Priv. Log.pdf>

EXHIBIT AA

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Monday, March 27, 2017 2:15 PM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Jeanne-Marie Pochert Hanna; Susan Gerace
Subject: Re: LVRJ v CCSD 2nd Supp Priv Log

Maggie,

We are diligently working on determining which additional searches CCSD may conduct absent a court order. We believe our searches previously conducted relative to the current record request of 2/10 have been done in good faith.

CCSD previously searched all email addresses and locations consistent with your specific request that we reasonably believe would have led to public records pursuant to your 2/10/17 request. By searching Pat Skorkowsky, Mike Barton, all school associate superintendents and the principals in Trustee Child's district, it is our belief that the disclosable public records responsive to your request have already been located as any concerns by any employee or the public would have likely been forwarded to one if not more of the numerous employees searched.

Nonetheless, in the spirit of cooperation and good faith, we will be sending out a directive to IT to search the emails of all trustees.

Given that you chose the Opening Brief date of 3/29 and then waited a week to send your 4 page letter on 3/21, it seems to me you have caused yourself a time crunch. If you need additional time to prepare your Opening or prefer to wait for confirmation as to the exact additional searches we are agreeable to conduct per your recent additional demands of 3/21, prior to preparing your Opening Brief, we would be amenable to stipulating to extending the dates for Opening, Answer, Reply briefing and hearing.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam, Thank you very much for your letter and revised log. If at all possible, I would like to know whether you will agree to the proposed additional custodian / source searches by close of business Monday. I understand you may need a bit of time to consider the specifics and discuss with Carlos but I have not even heard back as to the general question I posed -- i.e. will CCSD agree to any additional searches? That answer I would like today so I can limit issues for the Court as much as possible. As you know, while we have always been open to working with you on the scope of the searches (an invitation that has never been accepted; you instead unilaterally decided where to search and how to limit the request), it is my view that these searches should have been conducted in response to my 2/10 letter. Thanks in advance.

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(702) 728-5300

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>

> Sincerely,

>

> Adam Honey

> Assistant General Counsel

> Clark County School District

> <2nd Supplemental Priv. Log.pdf>

EXHIBIT BB

pharan@nvlitigation.com

From: maggie
Sent: Monday, March 27, 2017 4:00 PM
To: Adam Honey; pharan@nvlitigation.com
Cc: Carlos L. McDade; Jeanne-Marie Pochert Hanna; Susan Gerace
Subject: RE: LVRJ v CCSD 2nd Supp Priv Log

Adam:

Thanks very much for your email.

Thanks also for your willingness to search the trustees – are you asking them to search their personal emails or are you just searching the interact emails? When do you expect to be able to make a subsequent production and/or update the log?

I do recognize that we didn't send specific requests for additional custodians until 3/21 but I first raised the issue/ general approach quite some time ago.... And, as you know, it is my view that the PRA does not give CCD the ability to unilaterally limit searches, and it does not appear we will be able to resolve that issue.

In any case, thanks for your offer and I will give it some thought. We do appear to have a disagreement about the scope of what can be withheld in any case – have you had the chance to give that portion of my letter further thought? CCSD appears to be firm in its claim that documents such as the diversity report should be withheld but let me know if that's incorrect.

As ever, fell free to call me to discuss.

Best,

Maggie



ATTORNEYS AT LAW

701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
www.nvlitigation.com

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you received this message in error, please immediately delete it and all copies of it from your system, destroy any hard copies of it and notify the sender by return e-mail.

From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Monday, March 27, 2017 2:15 PM
To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Jeanne-Marie Pochert Hanna <jphanna@interact.ccsd.net>; Susan Gerace <sgerace@interact.ccsd.net>
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Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam, Thank you very much for your letter and revised log. If at all possible, I would like to know whether you will agree to the proposed additional custodian / source searches by close of business Monday. I understand you may need a bit of time to consider the specifics and discuss with Carlos but I have not even heard back as to the general question I posed – i.e. will CCSD agree to any additional searches? That answer I would like today so I can limit issues for the Court as much as possible. As you know, while we have always been open to working with you on the scope of the searches (an invitation that has never been accepted; you instead unilaterally decided where to search and how to limit the request), it is my view that these searches should have been conducted in response to my 2/10 letter. Thanks in advance.

Maggie McLetchie
McLetchie Shell, LLC
701 E. Bridger Ave., Suite 520
Las Vegas, NV 89101
(702) 728-5300

> On Mar 24, 2017, at 11:13 AM, Adam Honey <ahoney@interact.ccsd.net> wrote:

>
> Maggie,
>
> Attached please find a 2nd Supplemental Privilege Log. Documents pertaining to the current records request of 2/10/17 are in bold. Note that CCSD is not under any Order of the court relative to the February 10, 2017, records request and that CCSD's asserted privileges as to the 2/10 request are pending per the current briefing schedule regarding the same. CCSD waives no rights by pro-offering the attached log while under no court order to do the same.
>
> I anticipate addressing your request for expanded searches Tuesday March 28th.
>
> Sincerely,
>
> Adam Honey
> Assistant General Counsel
> Clark County School District
> <2nd Supplemental Priv. Log.pdf>

EXHIBIT CC

pharan@nvlitigation.com

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Tuesday, March 28, 2017 12:23 PM
To: maggie
Cc: pharan@nvlitigation.com; Carlos L. McDade; Jeanne-Marie Pochert Hanna; Susan Gerace
Subject: Re: LVRJ v CCSD 2nd Supp Priv Log

Maggie,

We have searched public records consistent with the detailed record request of 2/10/17. That is the only request before the court at this time. The most recent Order resolved the two December requests (original request and amended request by Amelia). The briefing schedule the parties are currently under is for the search parameters of the 2/10 request, only. I do not believe your attempts to belatedly expand the 2/10 request, (after the briefing schedule was ordered I would add), by way of correspondence dated 3/21 is proper. I also believe the searches we previously conducted were in good faith and reasonably calculated to obtain the public records requested on 2/10.

We stand by our objections and privileges asserted in our correspondence of 3/13/17 including those related to what you have called the "diversity report."

We will offer an estimate how long it will take to search the trustees emails as soon as we can. It is not as simple as conducting two searches of each trustee. We have to go through all documents to ensure compliance with FERPA and to protect employees personnel records in addition to determining if they contain information requested on 2/10. I will have a better idea once I know how many emails we are talking about.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam:

Thanks very much for your email.

Thanks also for your willingness to search the trustees – are you asking them to search their personal emails or are you just searching the interact emails? When do you expect to be able to make a subsequent production and/or update the log?

I do recognize that we didn't send specific requests for additional custodians until 3/21 but I first raised the issue/ general approach quite some time ago.... And, as you know, it is my view that the PRA does not give CCD the ability to unilaterally limit searches, and it does not appear we will be able to resolve that issue.

In any case, thanks for your offer and I will give it some thought. We do appear to have a disagreement about the scope of what can be withheld in any case – have you had the chance to give that portion of my letter further thought? CCSD appears to be firm in its claim that documents such as the diversity report should be withheld but let me know if that's incorrect.

As ever, feel free to call me to discuss.

Best,

Maggie

image001

Attorneys at Law

701 East Bridger Ave., Suite 520

Las Vegas, NV 89101

(702)728-5300 (T) / (702)425-8220 (F)

www.nvlitigation.com

IMPORTANT NOTICE: Privileged and/or confidential information, including attorney-client communication and/or attorney work product may be contained in this message. This message is intended only for the individual or individuals to whom it is directed. If you are not an intended recipient of this message (or responsible for delivery of this message to such person), any dissemination, distribution or copying of this communication is strictly prohibited and may be a crime. No confidentiality or privilege is waived or lost by any misdirection of this message. If you received this message in error, please immediately delete it and all copies of it from your system, destroy any hard copies of it and notify the sender by return e-mail.

From: Adam Honey [mailto:ahoney@interact.ccsd.net]

Sent: Monday, March 27, 2017 2:15 PM

To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com

Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Jeanne-Marie Pochert Hanna <jphanna@interact.ccsd.net>;

Susan Gerace <sgerace@interact.ccsd.net>

Subject: Re: LVRJ v CCSD 2nd Supp Priv Log

Maggie,

We are diligently working on determining which additional searches CCSD may conduct absent a court order. We believe our searches previously conducted relative to the current record request of 2/10 have been done in good faith.

CCSD previously searched all email addresses and locations consistent with your specific request that we reasonably believe would have led to public records pursuant to your 2/10/17 request. By searching Pat Skorkowsky, Mike Barton, all school associate superintendents and the principals in Trustee Child's district, it is our belief that the disclosable public records responsive to your request have already been located as any concerns by any employee or the public would have likely been forwarded to one if not more of the numerous employees searched.

Nonetheless, in the spirit of cooperation and good faith, we will be sending out a directive to IT to search the emails of all trustees.

Given that you chose the Opening Brief date of 3/29 and then waited a week to send your 4 page letter on 3/21, it seems to me you have caused yourself a time crunch. If you need additional time to prepare your Opening or prefer to

wait for confirmation as to the exact additional searches we are agreeable to conduct per your recent additional demands of 3/21, prior to preparing your Opening Brief, we would be amenable to stipulating to extending the dates for Opening, Answer, Reply briefing and hearing.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam, Thank you very much for your letter and revised log. If at all possible, I would like to know whether you will agree to the proposed additional custodian / source searches by close of business Monday. I understand you may need a bit of time to consider the specifics and discuss with Carlos but I have not even heard back as to the general question I posed — i.e. will CCSD agree to any additional searches? That answer I would like today so I can limit issues for the Court as much as possible. As you know, while we have always been open to working with you on the scope of the searches (an invitation that has never been accepted; you instead unilaterally decided where to search and how to limit the request), it is my view that these searches should have been conducted in response to my 2/10 letter. Thanks in advance.

Maggie McLetchie
McLetchie Shell, LLC
701 E. Bridger Ave., Suite 520
Las Vegas, NV 89101
(702) 728-5300

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>

> I anticipate addressing your request for expanded searches Tuesday March 28th.

>

> Sincerely,

>

> Adam Honey

> Assistant General Counsel

> Clark County School District

> <2nd Supplemental Priv. Log.pdf>

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL
DISTRICT

Appellant,

vs.

THE LAS VEGAS REVIEW-
JOURNAL,

Respondent.

CASE NO.: 73525

RESPONDENT'S APPENDIX – VOLUME II

Appeal from Eighth Judicial District Court, Clark County

The Honorable Timothy C. Williams, District Judge

District Court Case No. A-17-750151-W

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLECHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for The Las Vegas Review-Journal

INDEX TO RESPONDENT'S APPENDIX

<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES</u>
IV	Clark County School District Policy 0101	01/18/2018	RA660
IV	Clark County School District Regulation 1212	01/18/2018	RA651
IV	Clark County School District Regulation 4110	01/18/2018	RA652-RA657
IV	Clark County School District Regulation 4311	01/18/2018	RA658-RA659
II	Exhibits A – E, J, L – CC to Petitioner's Opening Brief in Support of Amended Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus	03/29/2017	RA120-RA311
IV	Exhibits 4 and 5 to Errata to Appendix of Exhibits in Support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs	09/20/2017	RA447-RA647
I	Exhibits 16 – 25 to Amended Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus – Expedited Matter Pursuant to Nev. Rev. Stat. § 239.011	03/01/2017	RA083-RA119
I	Public Records Act Application Pursuant to NRS § 239.001/ Petition for Writ of Mandamus – Expedited Matter Pursuant to Nev. Rev. Stat. § 239.011	01/26/2017	RA001-RA040
III	Reporter's Transcript of Hearing: Search Parameters	05/09/2017	RA312-RA446
I	Reporter's Transcript of Hearing: Writ of Mandate	02/14/2017	RA041-RA082
IV	Register of Actions	01/17/2018	RA648-RA650

CERTIFICATE OF SERVICE

I hereby certify that the foregoing RESPONDENT'S APPENDIX – VOLUME II was filed electronically with the Nevada Supreme Court on the 24th day of January, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
*Counsel for Appellant,
Clark County School District*

/s/ Pharan Burchfield

Employee of McLetchie Shell LLC

**EXHIBITS TO REVIEW-JOURNAL'S OPENING BRIEF IN
LAS VEGAS REVIEW-JOURNAL V. CLARK COUNTY SCHOOL DISTRICT
(Case No. A-17-750151-W)**

DOCUMENTS PRODUCED BY CCSD

DOCUMENTS PRODUCED IN RESPONSE TO DECEMBER REQUEST (AS SUPPLEMENTED)

Exhibit	Bates Number	Description
Exh. A	CCSD A 001-036	Documents provided by CCSD on February 3, 2017.¹
Exh. B	CCSD B 001-033	Final version of documents provided by CCSD on February 24-27, 2017 (previously provided by CCSD in parts and with various redactions, revised redactions on February 10, 2017, February 13, 2017, February 24, 2017 and February 27, 2017).

DOCUMENTS PRODUCED IN RESPONSE TO FEBRUARY REQUEST

Exh. C	CCSD C 001-027	Documents provided by CCSD on March 3, 2017.
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PRIVILEGE LOGS PROVIDED BY CCSD

Exhibit	Bates Number	Description
Exh. D	CCSD-LOG-1 001-003	Privilege log provided by CCSD on February 13, 2017 for production of documents responsive to the December Request.
Exh. E	CCSD-LOG-2 001-004	Supplemental privilege log provided by CCSD on March 24, 2017 for production of documents responsive to the December Request.

ARTICLE AND MEMO

Exhibit	Bates Number	Description
Exh. F	MEMO 001-009	December 23, 2016 Las Vegas Review-Journal Article "CCSD Investigation Say Trustee Kevin Child Created Hostile, Intimidating Environment" With Memo Attached.

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¹ CCSD used duplicative numbers and did not number some documents produced so the Review-Journal has assigned new Bates numbers with various prefixes to differentiate the productions for ease of review.



COMMUNICATIONS BETWEEN REVIEW-JOURNAL AND CCSD		
Exhibit	Bates Number	Description
Exh. G	CCSD-COM 001	December 5, 2016 Public Records Act request from Ms. Pak-Harvey of the Las Vegas Review-Journal to CCSD.
Exh. H	CCSD-COM 002	December 8, 2016 Supplement to December 8, 2016 Public Records Act request from Ms. Pak-Harvey of the Las Vegas Review-Journal to CCSD.
Exh. I	CCSD-COM 003-006	February 10, 2017 Public Records Act request from Ms. McLetchie to CCSD.
Exh. J	CCSD-COM 007-010	February 15, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. K	CCSD-COM 011-013	February 17, 2017 Email from Ms. Smith-Johnson in response to Ms. McLetchie's February 10, 2017 request.
Exh. L	CCSD-COM 014-0015	February 21, 2017 Letter from Ms. McLetchie to Mr. Honey regarding her February 10, 2017 request.
Exh. M	CCSD-COM 016-017	February 27, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. N	CCSD-COM 018	March 1, 2017 Email from Ms. McLetchie to Mr. McDade.
Exh. O	CCSD-COM 019-021	March 2, 2017 Email communications between Ms. McLetchie and Ms. Gerace.
Exh. P	CCSD-COM 022-023	March 3, 2017 Email from Ms. McLetchie to Mr. McDade and Mr. Honey.
Exh. Q	CCSD-COM 024-027	March 3, 2017 Response Letter from Mr. McDade to Ms. McLetchie regarding her February 10, 2017 request.
Exh. R	CCSD-COM 028-29	March 3, 2017 Email from Ms. McLetchie to Mr. McDade and Mr. Honey.
Exh. S	CCSD-COM 030-033	March 10, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. T	CCSD-COM 034	March 10, 2017 Email from Mr. Honey to Ms. McLetchie.
Exh. U	CCSD-COM 035-036	March 13, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. V	CCSD-COM 037-044	March 13, 2017 Letter from Mr. McDade to Ms. McLetchie in response to her March 3, 2017 email.
Exh. W	CCSD-COM 045-046	March 13, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. X	CCSD-COM 047-051	March 21, 2017 Letter from Ms. McLetchie to Mr. McDade.
Exh. Y	CCSD-COM 052-063	March 24, 2017 Email from Mr. Honey to Ms. McLetchie.
Exh. Z	CCSD-COM 064	March 24, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. AA	CCSD-COM 065-066	March 27, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. BB	CCSD-COM 067-069	March 27, 2017 Email communications between Ms. McLetchie and Mr. Honey.
Exh. CC	CCSD-COM 070-072	March 28, 2017 Email communications between Ms. McLetchie and Mr. Honey.

EXHIBIT A

From:  Elizabeth A. Carrero Monday, December 05, 2016 1:18:10 PM  

Subject: Communication from the Superintendent-Guidelines for Trustee Visit

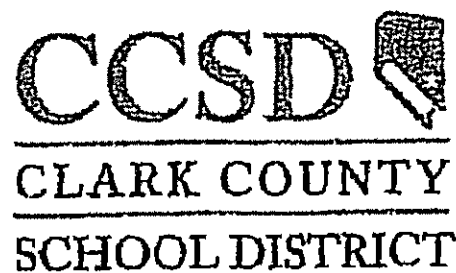
To:  Cabinet - Executive Cabinet  2017 SAS  Dist. D PRINCIPALS 12-2016
 Admin Center Announcements  12-2016 HR Admin
 12-2016 Transpo Admin  12-2016 Food Svc Admin  IDPLD Administrat...

Cc:  Patrick Skorkowsky  Cabinet - Executive Cabinet Sec

Attachments:  Memo to Staff Guidelines for Trustee Visit 12.05.16.pdf / Adobe Acrobat Docum...

Please see the attached memorandum from Superintendent Skorkowsky pertaining to guidelines for a trustee visit.


Elizabeth Carrero
Executive Manager/Director II
Office of the Superintendent
Clark County School District
5100 W. Sahara Avenue
Las Vegas, Nevada 89146
Tele: 702.799.5310
Fax: 702.799.5125



Office of the Superintendent
INTEROFFICE MEMORANDUM

DATE: December 5, 2016

TO: Members, Executive Cabinet
School Associate Superintendents
Principals, District D Schools
CCSD Administrative Center Staff
Administration, Human Resources Division
Administration, Transportation Department
Administration, Food Service Department
Administration, Instructional Design and Professional Learning Division



FROM: Pat Skorkowsky,  Superintendent of Schools

SUBJECT: Guidelines for Trustee Visit


In order to ensure a safe and respectful working environment, the following guidelines have been implemented:


1. Trustee Child will not enter the administrative offices of the District without a specific written invitation, and prior to following that invitation, he must check in with the front desk of the administrative office to confirm his invitation. The Superintendent must be notified via e-mail or by telephone of all invitations prior to the meeting.
2. If Trustee Child wishes to meet with a staff member of the District on official business, he is to schedule that meeting to occur at the offices of the Board of School Trustees. The Superintendent must be notified via e-mail or by telephone of all invitations prior to the meeting.
3. Trustee Child is not to appear at any of the District schools unless it is to attend a function which is open to the public or upon the specific written request of the Superintendent or the administrator with authority over that school. In the event that you extend such invitation, you are to forward a copy of that invitation to the Superintendent via e-mail or by telephone in a timely manner.

ps/ec
cc: Board of School Trustees

From:  Isaac Stein Monday, October 24, 2016 6:52:39 AM 

Subject: Fwd: Achievement School District Informational Meetings

To:  Rosanne Richards

Cc:  Mike R. Barton

Good morning, we are posting the below on our web-page:

Isaac Stein, Principal
Desert Pines High School
Performance Zone 14 - Turnaround
(702) 799-2196 ext. 4100

NOTICE: This information and attachments are intended only for the use of the individual or entity to whom it is addressed, and may contain information that is privileged and/or confidential. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited and may be punishable under state and federal law. If you have received this communication and/or attachments in error, please notify the sender via email immediately and destroy all electronic and paper copies.

----- Original Message -----

Hey Ms. Denua, could you please post the blue noted information on the website, if you convert it to black that is fine:

Due to recent legislation regarding Nevada's Achievement School District (ASD), the Clark County School District (CCSD) has a heightened sense of urgency surrounding the 2016-17 School Review Process. Desert Pines High School will be impacted by our District's proactive school review process this year. It is critical to note that this notice does not mean that Desert Pines High School will migrate to the CCSD Turnaround Zone or to Nevada's Achievement School District this year! Rather, the school district is being proactive because under Assembly Bill 448, Desert Pines High School meets eligibility requirements for consideration as set forth by the State, and possible conversion to a state charter school.

The Clark County School District's Turnaround Zone would like to invite all staff members, parents and community members of Desert Pines High School to attend one of the following optional informational sessions which will describe the 2016-2017 School Review Process and potential conversion of CCSD schools to charter schools within the State's Achievement School District.

Please join us at any of the following optional informational sessions, which will include a more detailed overview of the review process and a time for you to ask questions. School Board Trustees will be in attendance at their respective District Meetings listed below

Trustee District C, Dr. Linda E. Young, President

Tuesday, November 1, 2016 - 6:00 PM

West Prep Academy

2050 Sapphire Stone Ave, Las Vegas, NV 89106

Schools in District C:

Brinely Middle School

Clyde Cox Elementary School

Craig Elementary School

Desert Rose High School

Fitzgerald Elementary School

Kelly Elementary School

Priest Elementary School

West Prep Academy

Wendell Williams Elementary School

Trustee District D, Kevin Child, Trustee

Wednesday, November 2, 2016 - 6:00 PM

Desert Pines High School

3800 East Harris Ave, Las Vegas, NV 89110

Schools in District D:

Burk Horizon High School

Cambeiro Elementary School

Desert Pines High School

Global Community High School

Monaco Middle School

Petersen Elementary School

Von Tobel Middle School

Tom Williams Elementary School

Trustee District B, Chris Garvey, Vice President

Thursday, November 3, 2016 - 6:00 PM

Bailey Middle School

2500 North Hollywood Blvd, Las Vegas, NV 89156

Schools in District B:

Bailey Middle School

Lowman Elementary School

Trustee District G, Erin Cranor, Trustee

Wednesday, November 9, 2016 - 6:00 PM

Jerome Mack Middle School

4250 Karen Ave, Las Vegas, NV 89121

Schools in District G:


Mack Middle School
Orr Middle School

Thanks,
Isaac

Isaac Stein, Principal
Desert Pines High School
Performance Zone 14 - Turnaround
(702) 799-2196 ext. 4100

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From:  Joe Caruso
 Cindy Krohn

Tuesday, November 01, 2016 6:34:52 PM 

Subject: Fwd: Trustee Meetings for November

To:  Kimberly S. Wooden  Rick Neal  Mike R. Barton

Good evening,

FYI. The superintendent has asked me to e-mail the below information to you for your information only.

Have a good evening.

Joe

--- Original Message ---

Good Afternoon,

Below are dates and times of Trustee's parent/constituent meetings for the month of November.

*Thursday, November 3, 10:30 a.m.
Trustee Deanna Wright, ACE Meeting
Liberty High School, Library*


*Wednesday, November 16, 9:00 a.m.
Trustee Linda E. Young, Village Meeting
Bridger Middle School, Library*

*Wednesday, November 16, 9:30 a.m.
Trustee Patrice Tew, District E Meeting
Piggott Elementary School*

*Wednesday, November 30, 9:30 a.m.
Trustee Kevin L. Child, Meet & Greet
Von Tobel Middle School, Library*

Cindy Krohn, Executive Assistant
Clark County School District
Office of the Board of Trustees
5100 W. Sahara Ave.
Las Vegas, NV 89146
702-799-1072

From:  Norma Herrera

Wednesday, November 09, 2016 3:21:27 PM 

Subject: Save the Date 11/30/16

This message is being sent on behalf of Trustee Kevin L. Child

Please see attached invitation flyers for the District D "Meet and Greet" with School Board Trustee Kevin L. Child. Please share this information with your PTA's, PTO's and other parent groups. We look forward to seeing you.

SAVE THE DATE



**District D "Meet and Greet"
with
School Board Trustee
Kevin L. Child**

**Wednesday, November 30, 2016
9:30 a.m.**













**Von Tobel Middle School, Library
2436 N. Pecos Road
Las Vegas, NV 89115
(702) 799-7280**

Norma Herrera, Administrative Secretary
Clark County School District
Office of the Board of Trustees
5100 West Sahara Avenue, 4th Floor
Las Vegas, Nevada 89146

CCSD WAN. 0015-5280
PHONE: (702) 799-1072
FAX: (702) 799-0257

From:  Sandy Ginger Tuesday, January 26, 2016 11:44:05 AM 

Subject: Re: Spelling Bee Luncheon 2/10 @ SWCTA

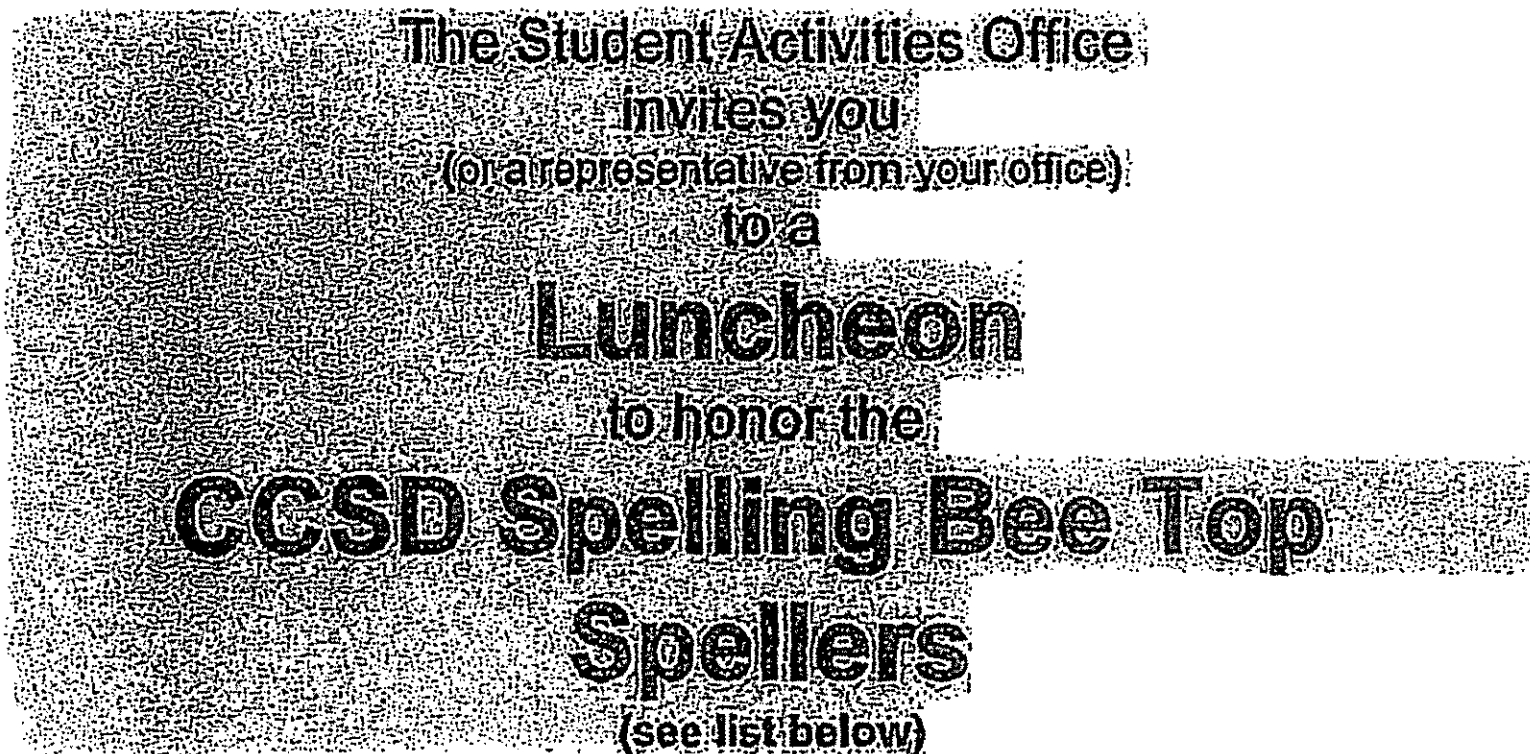
To:  Pat Skorkowsky  Billie Rayford  Kimbarly S. Wooden  Ray Mathis
 Trustee.Secretary  April L. Key  Andrea L. Klaffer-Rakita
 Karen L. West  Kristy D. Keller  Susan M. Smith - PZ13 Asst. Chief
 Elizabeth A. Carrero  Carmen L. West

A reminder about the spelling bee luncheon :)
Please respond by Friday if you are able to attend.

Thank you!

Attending:
Trustee Tew
Trustee Child

Regrets:
Billie Rayford





February 10, 2016
11:00 a.m. – 12:30 p.m.

at the

Southwest Career & Technical Academy Banquet Hall
Please RSVP via Interact by January 28th


6th Grade

School			
Canarelli MS	Isabel	Godoy	1st place
Mannion MS	Samantha	Frost	2nd place

S. Ginger
Director of Student Activities
Clark County School District
702/799-8474
WAN 0002-5172
"Prepare the child for the path, not the path for the child"

#BeRoyal
#TakeTheCrown

From:  Pat Skorkowsky
Sandy Ginger

Tuesday, January 26, 2016 3:42:52 PM 

Subject: Fwd: Re: Spelling Bee Luncheon 2/10 @ SWCTA

To:  Carmen L. West

JC

Carmen,

FYI.

Pat Skorkowsky
Superintendent of Schools

Every student in every classroom, without exceptions, without excuses

— Original Message —

From: Sandy Ginger January 26, 2016 11:44:05 AM
Subject: Re: Spelling Bee Luncheon 2/10 @ SWCTA
To: Pat Skorkowsky Billie Rayford Kimberly S. Wooden Ray Mathis Trustee
.Secretary
April L. Key Andrea L. Klaffer-Rakita Karen L. West Kristy D. Keller
Susan M. Smith - PZ13 Asst Chief Elizabeth A. Carrero Carmen L. West

A reminder about the spelling bee luncheon :)
Please respond by Friday if you are able to attend.

Thank you!

Attending:
Trustee Tew
Trustee Child

Regrets:
Billie Rayford

The Student Activities Office
invites you
(or a representative from your office)
to a

Luncheon
to honor the
**CCSD Spelling Bee Top
Spellers**
(see list below)



February 10, 2016
11:00 a.m. – 12:30 p.m.
at the

Southwest Career & Technical Academy Banquet Hall
Please RSVP via Interact by January 28th

7th Grade

School			
Fertitta/MS	Clark	Carver	1st place

Sawyer MS	Ericka	Garcés	2nd place
-----------	--------	--------	-----------

6th Grade

School			
Ganarelli MS	Isabel	Godoy	1st place
Mannion MS	Samantha	Frost	2nd place

S. Ginger

Director of Student Activities

Clark County School District

702/799-8474


WAN 0002-5172

"Prepare the child for the path, not the path for the child"




#BeRoyal

#TakeTheCrown

From:  CCSD Communications Office

Thursday, December 08, 2016 5:26:51 PM 

Subject: Media Report 12-8-16

Attachments:  CCSD News Release_ Monaco mariachi place thrd in national compellion.pdf / P...
 Three CCSD schools receive national PTA recognition - news release.pdf / Adobe ...
 CCSD News Release - CCSD adopts Sanford Harmony program to strengthen stu...

Today's key media stories and inquiries

Trustee Restrictions - Tom George from channel 13 interviewed Trustee Kevin Child today regarding the restrictions the superintendent placed on him regarding school and office visits. Tom requested an interview with the superintendent, which was declined and then he requested a statement from the district regarding the superintendent's actions regarding Trustee Child. Tom was informed that the district is not issuing any statements on the matter at this time.

NWCTA/Arbor View Softball Triplets - Denise Rosch from channel 3 interviewed three students, triplets, who attend NWCTA and play softball for Arbor View HS. The students are the first triplets in the history of NCAA Division II softball, to play for the same college. They signed with Black Hills State University in South Dakota. Story to air tonight.

Sanford Harmony - Univision attended today's announcement of the implementation of Sanford Harmony. Story to run today.

Media Advisories/News Releases

The following media advisories and press releases were sent out by the Communications Office on Wednesday, Dec. 7, 2016:

National PTA recognizes three Clark County School District schools - Richard H. Bryan, William and Mary Scherkenbach and John C. Vanderburg Elementary Schools have been selected as National PTA (Parent Teacher Association) Schools of Excellence for their achievement in building effective family-school partnerships.

Monaco Middle School mariachi place third in national competition - The students from Mariachi Los Gavilanes de Monaco Middle School are celebrating a

recent national accomplishment.

CCSD adopts Sanford Harmony program to strengthen student development and success - The Clark County School District (CCSD) today announced that it will be implementing a social emotional learning program from Sanford Harmony at the elementary school level for the 2016-17 school year.

Web

08 DEC PUBLIC INVITED TO SCHOOL BOARD MEETING THIS EVENING

Posted at 10:10h in [Community](#), [Events](#), [Trustees](#)

The Board of School Trustees will hold a regular meeting Thursday, Dec. 8 at 6 p.m. in the board room...

READ MORE

08 DEC HARD ROCK CAFE COLLECTS MUSICAL INSTRUMENTS FOR CORTEZ ELEMENTARY SCHOOL

Posted at 09:16h in [Elementary Schools](#), [Events](#), [Students](#)

The Hard Rock Cafe Las Vegas Strip is holding a musical instrument drive for Cortez Elementary School to help give...

READ MORE

08 DEC NEVADA LEARNING ACADEMY REACHES STUDENTS IN FAR-OFF PLACES

Posted at 09:01h in [Clark County School District](#), [Employees](#), [High Schools](#), [Middle Schools](#), [Newsletter](#), [Students](#)

Unlike most Clark County School District (CCSD) teachers, Beverly Little of Nevada Learning Academy at CCSD (NVLA) has students who...

READ MORE

08 DEC GRANTS DEPARTMENT HELPS SCHOOLS OBTAIN FUNDS FOR PROJECTS AND RESOURCES

Posted at 09:00h in [Clark County School District](#), [Employees](#), [Newsletter](#)

Grants play an important role in providing funding for Clark County School District (CCSD) schools to obtain additional resources that...

READ MORE

08 DEC RANCHO CULINARY INSTRUCTOR WINS NEVADA TEACHER OF THE YEAR

Posted at 08:59h in [Clark County School District](#), [Employees](#), [High Schools](#), [Newsletter](#), [Students](#)

Inside Rancho High School's culinary arts kitchen, it can get loud. It can get intense. It can get hot. And...

[READ MORE](#)

08 DEC HEALTH PLAN OF NEVADA DONATES SUPPLIES TO TWIN LAKES ELEMENTARY SCHOOL

Posted at 08:25h in [Elementary Schools](#), [Employees](#), [Students](#)

Health Plan of Nevada donated school supplies to Twin Lakes Elementary on Dec. 2

As reported by KTNV-TV, "Twin Lakes..."

[READ MORE](#)

08 DEC "PAT, PERSONALLY" FOCUSES ON TOLERANCE AND ACCEPTANCE

Posted at 07:57h in [Employees](#), [Students](#)

In his "Pat, Personally" column, Superintendent Pat Skorkowsky urges teachers to talk with their students about tolerance and reassure them...

[READ MORE](#)

08 DEC SUPERINTENDENT'S MAILBAG – ROLE OF SCHOOL ADMINISTRATION

Posted at 06:00h in [Clark County School District](#), [Newsletter](#)

Each week, the Clark County School District (CCSD) responds to some of the emails it receives from district employees, parents...

[READ MORE](#)

08 DEC NATIONAL PTA RECOGNIZES THREE CCSD SCHOOLS

Posted at 04:01h in [Clark County School District](#), [Elementary Schools](#), [Employees](#), [Parents](#), [Press Release](#), [Students](#)

Bryan, Scherkenbach and Vanderburg Elementary Schools have been selected as National PTA (Parent Teacher Association) Schools of Excellence for their...

[READ MORE](#)


08 DEC CLASSES TO BEGIN IN NEW BOULDER CITY HIGH SCHOOL IN JANUARY

Posted at 02:14h in [Employees](#), [High Schools](#), [In the News](#), [Students](#)



The new year will bring a new era for Boulder City High School when students and teachers start to hold...

[READ MORE](#)

From:  CCSD Communications Office

Thursday, October 06, 2016 5:07:38 PM 

Subject: Media Report 10-6-16

Attachments:  CCSD News Release_ CCSD PD to host car seat giveaway _ InterAct.pdf / Adobe ...
 CCSD Media Advisory - Week of Respect concludes with anti-bullying inspired co...

Today's key media stories and inquiries

Week of Respect / Rancho HS - The Nevada Army National Guard presented their H.E.A.R. (Helping Everyone Achieve Respect) anti-bullying program at Rancho HS. Channel 5 was in attendance and interviewed Trustee Child. Story to air today.

PD Press Conference - Representatives from channels 3, 5, 8, 13, Telemundo and the RJ attended today's press conference with Capt. Ken Young of CCSD PD regarding reports of clowns being sighted on campuses and clowns making threats to schools. Capt. Young said they have investigated the reports, but none of them have been deemed credible. Channel 13 was outside Monaco MS at dismissal today to interview students and parents on this topic.

Media Advisories/News Releases

The following media advisories were sent out by the Communications Office on Thursday, Oct. 7, 2016:

CCSD concludes Week of Respect with anti-bullying inspired concert - The Clark County School District (CCSD) concludes Week of Respect with music group After Romeo, who will perform and share stories of inspiration with Del E. Webb Middle School students during a special assembly to culminate the weeklong celebration.

CCSD Police Department to host car seat giveaway - The Clark County School District Police Department, in conjunction with the Nevada Office of Traffic Safety, will host a car seat giveaway on Saturday, Oct. 8, from 8 a.m. to noon at Thurman White Middle School.

Web

08 OCT CCSD POLICE TO CO-SPONSOR CAR SEAT GIVEAWAY OCT. 8 AT WHITE MIDDLE SCHOOL

Posted at 12:00h in [Elementary Schools](#), [Events](#), [Featured](#), [Parents](#), [Press Release](#), [Students](#)
CCSD Police and the Nevada Office of Traffic Safety will present a free car seat giveaway on Saturday, Oct. 8,...

[READ MORE](#)[06 OCT LEARN ABOUT AB 394](#)

Posted at 10:00h in [Clark County School District](#), [Community](#), [Elementary Schools](#), [Featured](#), [High Schools](#), [Middle Schools](#), [Parents](#), [Students](#)

During the 2015 Nevada Legislative Session, legislators voted to approve Assembly Bill 394 (AB 394), which provided that the Clark .

[READ MORE](#)[06 OCT GREENSPUN JHS "SO UNCOOL" TEAM WINS AWARD FROM AMERICAN RED CROSS](#)

Posted at 09:05h in [Featured](#), [Middle Schools](#), [Students](#)

Greenspun Junior High School's "So Uncool" Team, in partnership with R&R Partners, won an Everyday Heroes Award from the American...

[READ MORE](#)[06 OCT NEWSPAPER SPOTLIGHTS FORMER NFL STAR AND SECTA GRADUATE STEVEN JACKSON](#)

Posted at 05:43h in [Alumni](#)

Former NFL star and 2001 Southeast CTA graduate Steven Jackson was the guest speaker Sept. 29 at the Las Vegas...

[READ MORE](#)[06 OCT ARBOR VIEW HIGH SCHOOL TO PRESENT "MOON OVER BUFFALO" NOV. 16-18](#)

Posted at 03:50h in [Events](#), [High Schools](#), [Students](#)

The Arbor View High School Crimson Players will present the comedic play, "Moon Over Buffalo," Nov. 16-18 at 6 p.m....

[READ MORE](#)[06 OCT CHAPARRAL AND ELDORADO HIGH SCHOOL STUDENTS & STAFF HELP CLEAN UP PITTMAN WASH](#)

Posted at 01:33h in [Community](#), [Employees](#), [High Schools](#), [Students](#)

Teachers and students from Eldorado and Chaparral High Schools were among the 70-plus people who gathered at Henderson's Pittman Wash...

[READ MORE](#)[06 OCT WALTER LONG STEAM ACADEMY INVITES PARENTS TO VOLUNTEER IN PARENT CENTER](#)

Posted at 00:37h in [Elementary Schools](#), [Parents](#), [Students](#)

Walter Long STEAM Academy invites parents to volunteer in the school's Parent Center. Parents and guardians can collaborate with students...

[READ MORE](#)[06 OCT TRUSTEE PATRICE TEW TO HOLD PARENT MEETINGS OCT. 26 AT GIVENS ELEMENTARY SCHOOL](#)

Posted at 00:25h in [Events](#), [Parents](#), [Trustees](#)

Trustee Patrice Tew will hold a pair of District E parent meetings on Oct. 26 at 9:30 a.m. and 6:30...

[READ MORE](#)

06 OCT TRUSTEE KEVIN L. CHILD TO HOLD "MEET & GREET" OCT. 19 AT MARTIN MIDDLE SCHOOL

Posted at 00:22h in [Events](#), [Parents](#), [Trustees](#)

Trustee Kevin L. Child will hold a "meet and greet" on Oct 19 at 4 p.m. in the theater at...

[READ MORE](#)


06 OCT "ABC'S OF PARENTING" CLASSES ASSIST PARENTS OF CHILDREN AGES 5-10

Posted at 00:01h in [Community](#), [Elementary Schools](#), [Parents](#)

Clark County Family Services offers "ABC's of Parenting" classes for parents of children from five to 10 years old. According...

[READ MORE](#)

From:  CCSD Communications Office

Friday, July 15, 2016 5:24:45 PM 

Subject: Media Report 7-15-16

Today's key media stories and inquiries

Trustee Post - Representatives from channels 5, 8 and the RJ requested comment from Trustee Child regarding a social media post where he repeated a question he saw on a media outlet regarding protestors that would block traffic. Trustee Child responded with another post apologizing if anyone was offended by the original question and stated that he would never advocate violence against another person. The RJ item ran on its Facebook site this morning. Story status with channels 5 and 8 to be determined.

Statement Regarding Recent Events - A statement was sent out on behalf of the district regarding recent events:

"The past few weeks have been difficult for everyone. I want to express my support for every person in the CCSD family who is hurting. We have students and employees who have expressed concern via peaceful protests that their lives are not as precious as others' because of the color of their skin. We have School Police officers, Metro officers and their families who are part of a law enforcement community mourning the shootings in Dallas.

"Now is the time for our community to pull together and support each other. Comments made by individual trustees are their own."

Media Advisories/News Releases

There were no news releases or media advisories sent out by the Communications Office on Friday, July 15, 2016.

Web

15 Jul Check out the latest edition of CCSD Achieves!

Posted at 11:23h in [Achievements](#), [Clark County School District](#), [Community](#), [Employees](#), [Featured](#), [Newsletter](#), [Parents](#), [Students](#), [Trustees](#)

The latest edition of CCSD Achieves! -- the district's digital magazine -- is now available. This edition contains information about...


[Read More](#)

15 Jul VTCTA history teacher awarded national James Madison Fellowship

Posted at 08:24h in [Achievements](#), [Clark County School District](#), [Employees](#), [Featured](#), [High Schools](#)

Veterans Tribute Career and Technical Academy history teacher Kevin Barney was awarded

From:  CCSD Communications Office

Friday, February 12, 2016 5:09:50 PM 

Subject: Media Report 2-12-16

Attachments:  CCSD Media Advisory - Johnson JHS Event.pdf / Adobe Acrobat Document (344K)

Today's key media stories and inquiries

"No One Eats Alone" Day - Ch. 5 and The View covered the "No One Eats Alone Day" event at Becker MS. The event promotes inclusion among students and teens. Story to air tonight and will print in the next few weeks.

CCSD Orff Festival - Ch. 8's 'Cool at School' segment will feature the students at Wallin ES for their participation in the CCSD Orff Festival. The story will preview the festival which will be held later this month. Story to air next week.

Western HS Varsity Quiz - Ch. 8's 'Cool at School' segment will feature the students at Western HS who won the District's Varsity Quiz Championship. Story to air today.

Guinn MS Student Death - Ch. 13 requested and was sent a yearbook photo of a student who passed away Wednesday. The Coroner has not released the cause of death. Story to air today.

Superintendent's Salary - The Nashville Scene was provided Superintendent Skorkowsky's salary and other benefits for a larger piece on Superintendent salaries across the nation. Story to run next week.

California Recruitment - A Reporter from LA Times will be interviewing a teacher who moved to Las Vegas from California to teach to discuss what attracted her to move here. Story to run next week.

Boulder City HS Teacher - A reporter from Boulder City requested the status Boulder City HS teacher Jacqueline Desilva. She is currently assigned to home pending an investigation.

Media Advisories/News Releases

The following media advisory (attached) was sent out by the Communications Office yesterday, Thursday, February 11, 2016:

Chinese dancers to perform at Johnson JHS - Students and staff at Waller Johnson JHS

Academy of International Studies will celebrate Chinese New Year with special cultural event when members of the Hunan Dance Troupe from China perform at their school.

Web

12 FEB CCSD SCHOOLS OBSERVE BLACK HISTORY MONTH

Posted at 16:40h in Clark County School District, Featured

West Prep is among the CCSD schools celebrating Black History Month with various activities.

On Feb. 17, the school will...

READ MORE

12 FEB SEVEN CCSD HIGH SCHOOLS TO COMPETE IN MOCK TRIAL EVENT FEB. 13

Posted at 16:13h in Events, High Schools, Students

Seven CCSD high schools are among the local schools set to take part in the Southern Nevada Mock Trial competition...

READ MORE

12 FEB CLARK HIGH SCHOOL & CANYON SPRINGS HIGH SCHOOL SHINE AT WE THE PEOPLE COMPETITION

Posted at 16:00h in High Schools, Students

Clark High School took second place in the Unit 4 category of the We the People state finals Feb. 5...

READ MORE

12 FEB CCSD SCHOOLS & OFFICES TO BE CLOSED ON PRESIDENTS' DAY (FEB. 15)

Posted at 13:30h in Clark County School District, Elementary Schools, Employees, High Schools, Middle Schools, Students

All CCSD schools and offices will be closed Monday, Feb.15, in observance of Presidents' Day....

READ MORE

12 FEB SCHOOL BOARD HONORS CATHOLIC CHARITIES FOR ITS FOSTER GRANDPARENT PROGRAM

Posted at 12:28h in Community, Students, Trustees

Catholic Charities of Southern Nevada received kudos from the CCSD Board of School Trustees on Feb. 11 for its Foster...

READ MORE

12 FEB SCHOOL BOARD SALUTES METRO CHAMBER OF COMMERCE FOR THEIR HELP

IN RECRUITING TEACHERS

Posted at 12:21h in [Employees](#), [Trustees](#)

The CCSD Board of Trustees on Feb. 11 honored the Metro Chamber of Commerce for supporting CCSD's teacher recruiting efforts..

[READ MORE](#)

12 FEB CCSD TO BE AMONG EXHIBITORS AT FEB. 16 JOB FAIR

Posted at 11:27h in [Employees](#), [Events](#)

CCSD will be among the exhibitors at the Las Vegas Diversity Job Fair on Tuesday, Feb. 16 from 11-2 at...

[READ MORE](#)

12 FEB SCHOOL NAMESAKE ALICE RAE SMALLEY DIES AT AGE 91

Posted at 10:54h in [Employees](#)

One of the namesakes of Smalley Elementary School, Mrs. Alice Rae Smalley, passed away Feb. 10 at the age of...

[READ MORE](#)

12 FEB RONZONE ELEMENTARY SCHOOL TO CELEBRATE 50TH ANNIVERSARY MARCH 16

Posted at 05:02h in [Elementary Schools](#), [Events](#)

Ronzone Elementary School will celebrate its 50th anniversary on Wednesday, March 16, from 4:30 to 6 p.m. All former administrators. .

[READ MORE](#)


12 FEB TRUSTEE CHILD TO HOLD PARENT MEETING FEB. 17 AT KNUDSON MIDDLE SCHOOL

Posted at 05:01h in [Trustees](#)

CCSD Trustee Kevin L. Child will hold a "Chatting with Child" parent meeting Wednesday, Feb. 17 at 1:15 p.m. In...

[READ MORE](#)

From:  CCSD Communications Office

Wednesday, February 10, 2016 5:06:19 PM 

Subject: Media Report 2-10-16

Attachments:  CCSD Media Advisory - Rancho High School students soar to great heights 2-10-1...

Today's key media stories and inquiries

CCSD Spelling Bee - Channel 8 attended today's Spelling Bee luncheon honoring middle school champions and runner-ups.

Performing Arts Programs - Carol Cling from the RJ is doing a story highlighting the performing arts programs within CCSD and featuring Las Vegas Academy and Del Sol Academy. She interviewed Magnet/CTA Director Gia Moore and will be going to both schools tomorrow to interview the program coordinators, as well as several students. Story run date TBD.

Bailey MS - The food pantry located on the Bailey MS campus has had several recent break ins. The woman who runs the food pantry did an on-camera interview with channel 5 and 13 today regarding the break ins, she is from a local church. Story to air today.

Mazo Lawsuit - Several outlets called regarding a lawsuit against CCSD and Mazo, the music teacher arrested from Hayden. "CCSD does not comment on pending litigation."

Media Advisories/News Releases

The following media advisory was sent out by the Communications Office on Wednesday, Feb. 10, 2016.

Rancho High School students soar to great heights - CCSD, in collaboration with LVGEA, will be hosting a Manned and Unmanned Aerial System FutureReady Industry Tour at Rancho High School.

Web

10 FEB TRUSTEE YOUNG TO HOLD VILLAGE MEETING FEB. 17 AT WASDEN ELEMENTARY SCHOOL

Posted at 08:59h in Trustees

CCSD Trustee Dr. Linda E. Young will hold a Village meeting on Wednesday, Feb. 17 at 9 a.m. in the...

[READ MORE](#)

10 FEB TRUSTEE CHILD TO HOLD PARENT MEETING FEB. 17 AT KNUDSON MIDDLE SCHOOL

Posted at 08:58h in [Trustees](#)

CCSD Trustee Kevin L. Child will hold a "Chatting with Child" parent meeting Wednesday, Feb. 17 at 1:15 p.m. in...

[READ MORE](#)

10 FEB BOND OVERSIGHT COMMITTEE MEETS FEB. 18

Posted at 07:45h in [Events](#), [Trustees](#), [Uncategorized](#)

The Bond Oversight Committee will meet Thursday, Feb. 18 at 11:30 a.m. in room 466 of the Administrative Center, 5100...

[READ MORE](#)

10 FEB FEBRUARY IS CAREER & TECHNICAL EDUCATION MONTH

Posted at 07:09h in [High Schools](#), [Students](#)

February is Career & Technical Education (CTE) Month, a time to raise awareness of the role CTE plays in college...

[READ MORE](#)

10 FEB APIASF JUMP START COLLEGE TOUR TO BE HELD FEB. 20 AT UNLV

Posted at 06:33h in [Events](#), [High Schools](#), [Students](#)

The Asian & Pacific Islander American Scholarship Fund (APIASF) Jump Start College Tour will be held at UNLV on Saturday...

[READ MORE](#)

10 FEB CSN & CCSD TO HOST COLLEGE NIGHT FEB. 16

Posted at 05:25h in [Events](#), [High Schools](#), [Students](#)

The College of Southern Nevada (CSN) and CCSD's Student Services Division will host a CSN College Night on Tuesday, Feb....

[READ MORE](#)

10 FEB RONZONE ELEMENTARY SCHOOL TO CELEBRATE 50TH ANNIVERSARY MARCH 16

Posted at 05:00h in [Elementary Schools](#), [Events](#)

Ronzone Elementary School will celebrate its 50th anniversary on Wednesday, March 16, from 4:30 to 6 p.m. All former administrators...

[READ MORE](#)

10 FEB CCSD FAMILIES INVITED TO FISHING DERBY MARCH 5

Posted at 04:59h in [Employees](#), [Events](#)

CCSD families are invited to attend a fishing derby on Saturday, March 5, from 8 a.m. to noon. The free...

[READ MORE](#)

10 FEB YOUNG PEOPLE INVITED TO KWAK BALLET ACADEMY AT CHARLESTON HEIGHTS ARTS CENTER FEB. 13

Posted at 04:26h in [Community](#), [Events](#)

CCSD students are invited to the Kwak Ballet Academy, which trains young talents through a professional and systematic method of...

[READ MORE](#)

10 FEB CLARK HIGH SCHOOL TO HOST YOUTH CAREER EVENT FEB. 27

Posted at 04:15h in [Community](#), [Events](#), [High Schools](#), [Students](#)

High school students are invited to attend the Youth Career Empowerment Summit on Feb. 27 from 8:30 a.m. to 3...




[READ MORE](#)

10 FEB MARK YOUR CALENDARS FOR FAMILY ENRICHMENT DAY ON MAY 14


Posted at 02:44h in [Community](#), [High Schools](#), [Students](#)



FACES, in collaboration with UNLV, will host the 8th Annual Family Enrichment Day on Saturday, May 14. The event will...

[READ MORE](#)

From:  Isaac Stein Wednesday, December 07, 2016 7:44:29 AM  

Subject: Re: Magnet Open House

To:  Linda M. Burns

Cc:  Frank J. Pesce III  Laura J. Donue

Linda M. Burns writes:

Good morning Mr. Stein,

This Saturday, 12/10/16 is our Magnet Open House from 9am-11am. This is a public event and our department has invited Trustee Child to attend. He is a huge supporter of Desert Pines HS and all of our Magnet Programs. We are showing our support of him with a formal invite.

Thank you for this email. I agree with you as Trustee Child has been visible and supportive of DPHS, our students and our programs.

I know you have planned this a few weeks ago, but, can you please forward me a copy of the formal invite.

Appreciated,
Isaac












Best Regards,

Chef Linda Burns
Desert Pines High School
Culinary/Hospitality Instructor
Servsafe Instructor/Proctor

Isaac Stein, Principal
Desert Pines High School
Performance Zone 14 - Turnaround
(702) 799-2196 ext. 4100

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From:  Norma Herrera Wednesday, May 25, 2016 10:35:35 AM 
Subject: Re(2): Trustee Child
To:  Robert D. Mars
Cc:  Paul L. Fagone  Marbella E. Alfonzo  James D. Ertman
 MaryAnn L. Mueller  Cindy Krohn  Marbella E. Alfonzo
 Kevin L. Child - Trustee  Pat Skorkowsky

I have spoken to Trustee Child and passed on the below listed message. Thank you.

Norma Herrera, Administrative Secretary
Clark County School District
Office of the Board of Trustees
5100 West Sahara Avenue, 4th Floor
Las Vegas, Nevada 89146

CCSD WAN: 0015-5280
PHONE: (702) 799-1072
FAX: (702) 799-0257

Robert Mars
Principal
Silverado College Preparatory
& Career Technical High School
702-799-5790 x-4100
WAN: 0940/4100

"There are no mistakes in life, only lessons to be learned"

Norma Herrera writes:




This message is being sent on behalf of Trustee Kevin Child

Trustee Child has confirmed that he will be receiving the class at the Silverado graduation on Monday, June 6, 12 p.m. at the Thomas and Mack. Thank you.


Secretary









Floor

CCSD WAN: 0015-5280
PHONE: (702) 799-1072
FAX: (702) 799-0257

From:  Robert D. Mars Wednesday, May 25, 2016 10:28:22 AM  

Subject: Re: Trustee Child

To:  Norma Herrera

Cc:  Paul L. Fagone  Marbella E. Alfonzo  James D. Erlman
 MaryAnn L. Mueller  Cindy Krohn  Marbella E. Alfonzo
 Kevin L. Child - Trustee  Pat Skorkowsky

We are glad that he will be there, however, the other day Trustee Child said he wasn't going to be at our graduation and then I received confirmation that Supt. Skorkowsky would be present. Based on this information, we ran our programs and they indicate that Supt. Skorkowsky will be Accepting the Class of 2016. I'm sure it will all work out, however, I wanted Trustee Child to know that our programs have been printed.

Robert Mars
Principal
Silverado College Preparatory
& Career Technical High School
702-799-5790 x 4100
WAN: 0940 4100

"There are no mistakes in life, only lessons to be learned"

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

Norma Herrera writes:

~~This message is being sent on behalf of Trustee Kevin Child~~


~~Trustee Child has confirmed that he will be receiving the class at the Silverado graduation on Monday, June 6, 12 p.m. at the Thomas and Mack. Thank you.~~










Norma Herrera, Administrative Secretary
Clark County School District
Office of the Board of Trustees
5100 West Sahara Avenue, 4th Floor
Las Vegas, Nevada 89146

CCSD WAN: 0015-5280
PHONE: (702) 799-1072
FAX: (702) 799-0257

From:  Norma Herrera Friday, May 06, 2016 12:34:12 PM  

Subject: Re: Student Body Presidents Luncheon 5/19

To:  Sandy Ginger

Cc:  Pat Skorkowsky  Billie Rayford  Mike R. Barton
 Performance Zones  Trustee.Secretary  Carmen L. West
 Elizabeth A. Carrero  Cindy Krohn  Joe Caruso

Good afternoon Sandy,

Trustee Child will attend the High School Student Body Presidents Spring Recognition Luncheon on May 19, 2016.

Norma Herrera, Administrative Secretary
Clark County School District
Office of the Board of Trustees
5100 West Sahara Avenue, 4th Floor
Las Vegas, Nevada 89146

CCSD WAN: 0015-5280
PHONE: (702) 799-1072
FAX: (702) 799-0257

Sandy Ginger on Thursday, May 05, 2016 at 1:17 PM -0700 wrote:

*In Cooperation with the Nevada Association of Student
Councils,
the Student Activities office invites
you (or a representative from your office) to attend the*

The event is on May 19, 2016 from 10:30 a.m.
- 12:00 p.m.
at the
EAST Career & Technical Academy Banquet Hall
Please RSVP via email by May 11th

(This event is funded by SGF)

The following schools have signed up to attend the luncheon:

Arbor View
Basic Academy
Bonanza High School
Boulder City High School
Centennial
Cheyenne High School
Cimarron Memorial High School
Clark High School
Coronado High School
Desert Oasis High School
Desert Pines High School
Durango High School
Eldorado High School
Foothill High School
Global Community High School
Green Valley HS
Las Vegas Academy
Las Vegas HS
Legacy
Liberty High School
NWETA
Sandy Valley High School
Shadow Ridge HS
Sierra Vista High School
Silverado
Spring Valley High School
SWETA
Valley

West CTA
West Prep
Western High School

S. Ginger
Director of Student Activities
Clark County School District
702/799-8474
WAN0002-5172
"Prepare the child for the path, not the path for the child"

#BeRoyal

EXHIBIT B

Date: September 13, 2016

Re: Incident Report (Trustee Kevin Child)


Time: approximately 11:27 am (after 1st lunch)

After 1st lunch on Tuesday, September 13, 2016, I was on duty by the 300/400 hallway. As I was clearing the hallway, I saw Mr. Kevin Child walking towards me, and as he approached me, he asked me if I was a monitor. I replied, "No, Sir. I am one of the assistant principals." As I responded to his question, I noticed that he looked at me from head to toe and back which made me uncomfortable. He acknowledged me by saying, "Oh you are one of the assistant principals" but as he spoke he continued to look at me from head to toe and back. This made me so uncomfortable. He continued to converse with me about the school, and I responded by telling him how I love the school and I also said that our principal, Ms. Esparza, is so awesome. Mr. Child continued to look at me from head to toe and back which made me very uncomfortable. I noticed that he repeated the words that I said about Ms. Esparza and Valley HS, but as he spoke to me, he looked at me from head to toe and back. When he walked away, another assistant principal, Ms. Ramona Fricker, was walking towards me so I approached her and told her what just transpired. I told Ms. Fricker that it made me so uncomfortable. She remarked, "Ewww, he checked you out? That's disgusting." As I walked towards the top of the ramp, I saw my principal, Ms. Ramona Esparza, and I told her what just transpired and again, I told her that it made me really very uncomfortable.



Assistant Principal
Valley High School

From:  Nicole W. Rourke

Monday, October 24, 2016 6:59:15 PM 

Subject: Cannon MS Request

To:  Cedric Cole

Cedric,

The request we discussed was sent to me via text from Beverly Mason:

FYI - Principal McKay at Cannon requested that Trustee Child not attend PAYBAC in November due to his disruption last year. We told him that we could not bar him from coming but that we would note his request. We let him know that he has attended the last couple with no incidents. However he did introduce himself today as "I'm the BIG boss. I'm everybody's boss. I'm a trustee."

I will email Principal McKay and send him your number.

Thanks,
Nicole

002

CCSD B 002

RA161

Wednesday, December 16, 2015

Following today's PAYBAC Program at Lied Middle School, I received a telephone call from Kelly O'Rourke, principal at Lied Middle School, and Christie Ford, assistant principal at Lied Middle School. The reason for the telephone call was to inform me of an incident with one of today's PAYBAC speakers, Trustee Kevin Child.

Ms. O'Rourke and Ms. Ford related to me what Ms. Christine Mecham, sixth grade accelerated English teacher, had experienced in her classroom this morning with Trustee Child as her assigned PAYBAC speaker. She shared that Trustee Child had told the class about his former wife's suicide in graphic details about setting the downstairs on fire before killing herself. Trustee Child had asked the students to close their eyes and raise their hands if they had ever felt unhappy. It was stated that he asked them to open their eyes and see who had their hands raised.

Ms. O'Rourke and Ms. Ford stated that one of the students, whose hand was raised, was a very quiet young man. Trustee Child asked the young man why he was not happy. The young man stated that he was bullied at school. Ms. O'Rourke and Ms. Ford said Trustee Child told the whole class that there was no such thing as bullying. It was shared that Trustee Child told the class "sticks and stones can break my bones but words cannot hurt me" and asked them to repeat it over and over.

Ms. O'Rourke and Ms. Ford said that Ms. Mechum could see that the young man was embarrassed and upset about being singled out and the overall conversation. It was stated that Ms. Mechum asked the young man to step outside and get a drink of water to help calm down the young man. Ms. O'Rourke and Ms. Ford were told that Trustee Child told Ms. Mechum that the young man needed to stay to hear what he had to say. It was stated that Trustee Child told Ms. Mechum that "he was her boss and that the young man needed to stay in the classroom."

Ms. O'Rourke and Ms. Ford stated that they were very pleased with today's PAYBAC Program. They shared that teachers were already discussing the great speakers and experiences they had in their classrooms, with the exception of what transpired in Ms. Mechum's classroom.

Kurt Arnold
Coordinator
School-Community Partnership Program

Tuesday, December 9, 2014

Jeffrey Behavior Junior/Senior High School

I was instructed by my immediate supervisor, Beverly P. Mason, to wait and see if Mr. Child showed for the PAYBAC Program at Jeffrey Behavior Junior/Senior High School. I was instructed to notify Nicole Rourke, Executive Director of Government Affairs, if Trustee Kevin Child was in attendance at Jeffrey Behavior Junior/Senior High School. When Trustee Child did arrive, I notified Ms. Rourke via a telephone call. I was instructed not to say anything to Trustee Child about the previous incident.

No incidents were reported to me by the administration at Jeffrey Behavior Junior/Senior High School.

Tuesday, May 12, 2015

Walter Johnson Junior High School

George Anas, principal at Walter Johnson Junior High School, called following their PAYBAC Program to report that a suicide protocol was initiated due to Trustee Child's presentation in room 602 (Mr. Darren Motamedy).

I reported this incident to my immediate supervisor, Beverly Mason.

Wednesday, December 16, 2015

Lied Middle School

Ms. Kelly O'Rourke, principal at Lied Middle School, and Ms. Christine Ford, assistant principal at Lied Middle School, contacted me via a conference call following their PAYBAC Program to inform me of an incident with Trustee Kevin Child.

Trustee Child discussed suicide with the students in room 610 (Ms. Christine Mecham). I was provided with the details of the incident by Ms. O'Rourke and Ms. Ford, which I composed into a narrative. I was instructed to compose an e-mail message to Superintendent Pat Skorkowsky and attach the incident narrative. Elizabeth Carrero, Nicole Rourke, and Beverly Mason were copied on the e-mail message sent to Superintendent Skorkowsky (attached)

I reported this incident to my immediate supervisor, Beverly Mason

Tuesday, April 29, 2014

Dell H. Robison Middle School

Kevin Child (prior to becoming Trustee Child) was assigned room #500 at Dell H. Robison Middle School. The room contained several teachers and their students in a small classroom located off the front entrance.

This is the first occurrence, that I was aware of, in which Mr. Child brought up the subject of suicide with the students. It was reported to me by a school administrator that Mr. Child asked the students to close their eyes and raise their hands if they ever thought of suicide. It was reported that he asked the students to keep their hands in the air and open their eyes to see how many classmates had thoughts of suicide.

I spoke to Mr. Child about the incident at Dell H. Robison Middle School. I explained to him that the Professionals And Youth Building A Commitment (PAYBAC) Program was not the program to discuss suicide with students. I also explained the impact that his discussion on the subject had on the school's counselors, administrators, students, and parents, and the protocol that had to occur following the PAYBAC Program.

He stressed that suicide was an important topic that needed to be discussed with students because kids are taking their own lives. I again explained that the PAYBAC Program was not the time to discuss the subject of suicide.

I reported this incident to my immediate supervisor, Beverly Mason.

October 30, 2014


K.O. Knudson Middle School

I was notified by Ms. Monica Cortez, principal at K.O. Knudson Middle School, that Kevin Child had brought up the subject of suicide with students in room 601 (Ms. Lindsey Springer) during his PAYBAC Program presentation.

Ms. Cortez explained that a suicide protocol was initiated for the students who spoke with the school's counselor.

I reported this incident to my immediate supervisor, Beverly Mason.

From:  Gia Moore

Thursday, May 12, 2016 11:13:26 AM 

Subject: Incidents at Magnet Schools of America

To:  Pat Skorkowsky

Cc:  Joe Caruso

Good morning,

I wanted to bring to your attention some unfortunate incidents that occurred recently at the Magnet Schools of America (MSA) Conference on May 5 and 6. As you are aware, Trustee Kevin Child attended the Magnet Schools of America Conference last week. His behavior at the conference at times was extremely unprofessional. Below, I have outlined examples of his behavior.

- On May 5, during the morning session where Magnet Schools of Distinction Awards were distributed, Trustee Child became irritated that he could not sit with the schools that were receiving recognition. It was explained to him that the schools were lined up in the order in which they would be announced, so he would have to sit in another section. As the schools lined up and were called to the stage, he wanted to go on the stage and take a photo with each school. He had to be told by an MSA official that this was inappropriate and that he would have to be seated.
- Later on the evening of May 5, a private event was held for district officials from across the country which included the Superintendent of Miami-Dade County School District and the Miami-Dade Board of Trustees. Trustee Child also attended this event. At a certain point during the evening, Sara Wheeler, President Elect for MSA, came to me and showed me Trustee Child's business card. She expressed to me that she felt that his behavior was inappropriate and that he was distributing his card to the Superintendent, Miami-Dade Board of Trustees, and MSA Board members. I told Ms. Wheeler that I was extremely sorry for his behavior. I approached Trustee Child to address this with him, but he stated to me that he was leaving as he needed to go spend time with his girlfriend as "she was not invited."
- On Friday May 6, during the Region VIII meeting, an election was held for the Region VIII Director position in which I was a candidate. He went from table to table to tell members that they needed to vote for me, exclaiming "Go CCSD!" As the meeting was called to order, he sat at my table and stated to me, "I made sure you would be elected." I told him that his "campaigning" was unnecessary as the members had seen my platform for my candidacy and biographical information two months prior. I happened to win, however, an MSA official brought to my attention that Ginger Cole, the woman I ran against, had filed a complaint with Maree Sneed, who is an MSA board member and

006

CCSD B 006

attorney. I am still uncertain what will come out of this complaint.

I hope that you will understand that it is difficult for me to bring this forward as I pride myself in being able to handle issues that may occur with another professional. However, when it comes to the reputation of the district and preserving my professional reputation, I take matters very seriously. His behavior has continued since our return from the conference. He has been telling individuals that he is the reason why I was elected to my position with MSA. I feel like this diminishes my last 14 years of dedication and hard work with our magnet schools as well as my past decade of involvement with MSA. To say that I am disappointed is truly an understatement.

Sincerely,




Gia Moore
Director
Magnet Schools and Career and Technical Academies
Select Schools
Clark County School District
702.799.8492
WAN 0633-4042


Work Hard. Be Nice.

007

CCSD B 007

RA166

From:  Joe Ceruso
Subject: Re: Miami MSA Conference Incidents
To:  Kelly Bucherle
Cc:  Pat Skorkowsky

Friday, May 20, 2016 1:20:31 PM 

Kelly,

Thank you for the e-mail and information.

I hope that you are doing well.

Joe

Kelly Bucherle writes:
May 13, 2016

Dear Superintendent Skorkowsky,

It is unfortunate to have to connect back to CCSD in this manner, but I feel compelled to ensure leadership and the Board of School Trustees understand the severe lack of decorum and unprofessional behavior that Trustee Kevin Child displayed while participating in the Magnet Schools of America National Conference in Miami May 4-7, 2016.

I had only one personal experience with him, but on five separate occasions, non-CCSD attendees and MSA Board members approached me and made comments or statements about his behaviors.

- During the VIP reception, paid for by our sponsorships, Mr. Child told MSA personnel that he wished to bring his girlfriend/wife to the dinner; he was told that, unfortunately, he could not as the invitation was not for a plus one. He was angry and proceeded in the reception to let more than one person know he was leaving and not happy.

008

CCSD B 008

RA167

- He appeared overly anxious to meet Superintendent Alberto M. Carvalho. (I actually watched this scenario and wanted to crawl under a table).

- During the second awards ceremony on Friday, Mr. Child walked up and stood in front of the MSA Board (first row) to take pictures of CCSD awardees; others politely used the aisle to take photographs. Two additional persons asked me if he was really a Trustee of CCSD.

I am not thrilled to write this letter, as I know Trustee Childs is an elected official. I am greatly concerned that he represents any of us.




Sincerely,


Kelly Bucher

009

CCSD B 009

RA168

From:  Kelly Bucherie
Subject: Miami MSA Conference Incidents
To:  Pat Skorkowsky
Cc:  Joe Caruso

Friday, May 20, 2016 12:58:17 PM 

May 13, 2016

Dear Superintendent Skorkowsky,

It is unfortunate to have to connect back to CCSD in this manner, but I feel compelled to ensure leadership and the Board of School Trustees understand the severe lack of decorum and unprofessional behavior that Trustee Kevin Child displayed while participating in the Magnet Schools of America National Conference in Miami May 4-7, 2016.

I had only one personal experience with him, but on five separate occasions, non-CCSD attendees, and MSA Board members approached me and made comments or statements about his behaviors.

- On May 5, 2016 while ushering award recipients to their seats in accordance to the announcement of their award, Trustee Child approached me and asked where he was to sit? I informed him that he could sit in the audience with other attendees. He proceeded to see if he could sit with the awardees; I again, told him he could not and he said he wanted to be up on stage with the leadership when they receive their award. I informed him he could not and other district officials would not either. I then had to assist him (escort) in finding CCSD personnel in which he could join in the audience.
- For the Region VIII elections for MSA Director, Gia Moore (CCSD) was running against the incumbent. Mr. Child campaigned in support of Gia directly in front of the incumbent. Post election, Ginger Cole (incumbent), reported to me and MSA Board Members, that she was humiliated and belittled by this incident behavior and lack of decorum by anyone, let alone a School Board Trustee. *This has never occurred before, due to his behavior, MSA will have to provide guidance to follow in these meetings and elections.*
- During the VIP reception, paid for by our sponsorships, Mr. Child told MSA personnel that he wished to bring his girlfriend/wife to the dinner; he was told that, unfortunately, he could not as the invitation was not for a plus one. He was angry and proceeded in the reception to let more than one person know he was leaving and not happy.
- He appeared overly anxious to meet Superintendent Alberto M. Carvalho. (I actually watched this scenario and wanted to crawl under a table).
- During the second awards ceremony on Friday, Mr. Child walked up and stood in front of the MSA Board (first row) to take pictures of CCSD awardees; others politely used the aisle to take photographs. Two additional persons asked me if he was really a Trustee of CCSD!

I am not thrilled to write this letter, as I know Trustee Childs is an elected official. I am greatly concerned that he represents any of us.

010

CCSD B 010



RA169

Sincerely,

Kelly Bucherle

011

CCSD B 011

From:  Pat Skorkowsky Wednesday, April 20, 2016 9:24:42 PM 
 Subject: Re: Confidential re: KidsVention
 To:  Joyce Woodhouse <jwoodhouse642@yahoo.com>

Joyce,

Please accept my apology on behalf of the students, teachers and administrators. It was an exceptional event and I was thrilled to see the joy on our students' faces as they participated in this event.

I did share with President Young and had a conversation with Trustee Child.

Again, I apologize.

Pat

Pat Skorkowsky
 Superintendent of Schools

Every student in every classroom, without exceptions, without excuses

Joyce Woodhouse <jwoodhouse642@yahoo.com> writes:
 Good afternoon

I have been made aware of some remarks made by Board Member Kevin Childs at KidsVention today, and I wanted you to know about it as soon as possible. He was quite upset that
 * names of School Board members were not listed in the program
 * he was not introduced.

KidsVention has been an event of Voices In Voting/Kids Voting Southern Nevada since 1994, and the organization is a non-profit that is in partnership with CCSD's Partnership Office. We have never put the board members names in the program. If we did, we would need to put all of the board members' names of all of the sponsoring groups.

In the past we did introduce board members and sponsors from the stage if they were in the audience. However, because we needed to lighten up the program in order to meet bus requirements, all of that was taken out of the program on my decision. There were other sponsors in the audience, who were not introduced, and I did not receive any objections from any of them. Usually, I ask the CCSD Board Chair to participate by introducing one of the

debates, but she was not available this year. The VIV/KVSN Board wanted to expand, and I agree, some recognition to Higher Education, which was why two of the introducers were from NSHE.

At Mr. Child's complaint, I went to the Master of Ceremonies and asked him to introduce Mr. Child. He did.

Please let me know if you need anything from me. We certainly do not want KidsVentlon or the efforts of VIV/KVSN to be hurt in any way. Thank you for your understanding.






Joyce

P.S. On a personal note, I did "shush" Mr. Child during Kim Russell's presentation of Sojourner Truth and the value of voting. He was shaking his hand clapper, which was inappropriate at the time. Mea culpa.

013

CCSD B 013

RA172

From:  Joyce Woodhouse <jwoodhouse642@yahoo.com> 4/19/2016 2:05:14 PM 
Joyce Woodhouse <jwoodhouse642@yahoo.com>
Subject: Confidential re: KidsVention
To:  Pat Skorkowsky  nrourke@interact.ccsd.net  bmason@interact.ccsd.net

Attachments:  Attach0 / Uploaded File (5K)

Good afternoon:

I have been made aware of some remarks made by Board Member Kevin Childs at KidsVention today, and I wanted you to know about it as soon as possible. He was quite upset that:

- * names of School Board members were not listed in the program
- * he was not introduced.

KidsVention has been an event of Voices In Voting/Kids Voting Southern Nevada since 1994, and the organization is a non-profit that is in partnership with CCSD's Partnership Office. We have never put the board members names in the program. If we did, we would need to put all of the board members' names of all of the sponsoring groups.

In the past we did introduce board members and sponsors from the stage if they were in the audience. However, because we needed to tighten up the program in order to meet bus requirements, all of that was taken out of the program on my decision. There were other sponsors in the audience, who were not introduced, and I did not receive any objections from any of them. Usually, I ask the CCSD Board Chair to participate by introducing one of the debates, but she was not available this year. The VIV/KVSN Board wanted to expand, and I agree, some recognition to Higher Education, which was why two of the introducers were from NSHE.

At Mr. Child's complaint, I went to the Master of Ceremonies and asked him to introduce Mr. Child. He did.

Please let me know if you need anything from me. We certainly do not want KidsVention or the efforts of VIV/KVSN to be hurt in any way. Thank you for your understanding.

Joyce

014

CCSD B 014




RA173


P.S. On a personal note, I did "shush" Mr. Child during Kim Russell's presentation of Sojourner Truth and the value of voting. He was shaking his hand clapper, which was inappropriate at the time. Mea culpa.

015

CCSD B 015

RA174

From:  Pat Skorkowsky
Subject: Re: Guidelines for Trustee Visit
To:  Robert T. Henry
Cc:  Tammy A. Malich

Thursday, December 08, 2016 9:37:58 PM 

Dr. Henry,

There was an investigation and these are the guidelines. We must all comply and there are no exceptions.

My apologies.

Pat

Pat Skorkowsky
Superintendent of Schools

Every student in every classroom, without exceptions, without excuses

Robert T. Henry writes:

Good Morning Mr. Skorkowsky:

I want to be a good and valued employee - one who follows direction, however, in this instance I am conflicted!

016

CCSD B 016

RA175

bob




To argue with a person who has renounced the use of reason is like administering medicine to the dead. Thomas Paine


Robert T. Henry, Ed. D., Executive Director
Clark County School District
Education Services Division
Department of Adult Education
2701 E. St. Louis Avenue
Las Vegas, NV 89104
Phone: 702.799-8650 x5301
Fax: 702.799-8608

017

CCSD B 017

RA176

From:  Robert T. Henry
Subject: Guidelines for Trustee Visit
To:  Pat Skorkowsky
Cc:  Tammy A Malich

Tuesday, December 06, 2016 6:14:47 AM 

Good Morning Mr. Skorkowsky,

I read your memo "Guidelines for Trustee Visit." I am writing to express my concerns regarding the direction you have given. I wish to express concerns as to how it applies to me and the programs for which I have supervisory responsibility. Your direction places me in an uncomfortable and unique position. I have never in my life intentionally defied a direction given to me; however, in this instance any action I or administrators identified take, places us in a "no win" situation. If Trustee Child comes to our campus and we comply by asking Trustee Child to leave our campus as he has not been invited, we at the very least will offend him. If we allow him to stay even though his visit was not scheduled, we place ourselves in violation of your direction. To me, that is a "no win" for all of us.

While Mr. Child presents some challenges when he visits our programs, I honestly believe that he has his heart in the right place. He impresses me as someone who continues to advocate for children. He encourages our students to make the most of their educational opportunities. For that I applaud him. Yes, sometimes his antics are a bit unconventional, but he is at least doing something that may help.

I want to be a good and valued employee - one who follows direction; however, in this instance I am conflicted.

bob

To argue with a person who has renounced the use of reason is like administering medicine to the dead. Thomas Paine

Robert T. Henry, Ed. D, Executive Director
Clark County School District
Education Services Division
Department of Adult Education
2701 E. St. Louis Avenue
Las Vegas, NV 89104
Phone: 702.799-8650 x5301

018

CCSD B 018

RA177


Fax: 702.799-8608

019

CCSD B 019

RA178

From:  Pat Skorkowsky

Thursday, December 08, 2016 9:30:22 PM 

Subject: Re: Fwd: Magnet Open House

To:  Isaac Stein

Isaac,

Trustee Child may attend the below event, however, in the future the invitations must come from the principal.

Have a good evening

Pat

Pat Skorkowsky
Superintendent of Schools

Every student in every classroom, without exceptions, without excuses

Isaac Stein writes:

Just an FYI Mr. Pesce will be here for the event. I do not believe I will be in attendance as I have family obligations. Additionally, my Magnet Theme Coordinator and teachers will be in attendance with Mr. Pesce. Trustee Child has been extremely supportive of our Magnet Program and the teachers that teach our Magnet Courses.

All my best,
Isaac

Have a great holiday should I not see you before the break

Isaac Stein, Principal
Desert Pines High School
Performance Zone 14 - Turnaround
(702) 799-2196 ext 4100
ISS128@interact.ccsd.net

 Original Message

020

CCSD B 020

RA179


Good morning Trustee Child,

Best Regards,

Chef Linda Burns
Desert Pines High School
Culinary/Hospitality Instructor
Servsafe Instructor/Proctor
lmburns@interact.ccsd.net
702-799-2196
cell 702-469-9861

1

From:  Isaac Stein
Linda M Burns

Wednesday, December 07, 2016 7:54:10 AM 

Subject: Fwd: Magnet Open House

To:  Pat Skorkowsky

Just an FYI, Mr. Pesce will be here for the event. I do not believe I will be in attendance as I have family obligations. Additionally, my Magnet Theme Coordinator and teachers will be in attendance with Mr. Pesce. Trustee Child has been extremely supportive of our Magnet Program and the teachers that teach our Magnet Courses.

All my best,
Isaac

Have a great holiday should I not see you before the break.

Isaac Stein, Principal
Desert Pines High School
Performance Zone 14 - Turnaround
(702) 799-2196 ext. 4100
ISS128@interact.ccsd.net

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----- Original Message -----

Good morning Trustee Child,

This is your formal invitation to attend the Magnet Open House at Desert Pines HS on Saturday, December 10, 2016. The event is being held from 9-11am on our campus. We appreciate the support you give to Desert Pines HS and all of our programs. We would be honored if you would attend.

Best Regards,

Chef Linda Burns
Desert Pines High School

Culinary/Hospitality Instructor
Servsafe Instructor/Proctor

023

CCSD B 023

October 7, 2016
Clark High School
Visitor Stands

During the early minutes of the third quarter at the Clark-Durango Football Game, hosted at Clark High School, I noticed an individual on the track just behind our cheerleaders, nearest the stands. He was walking towards the fence that separated our fans from the field of play. He was talking and gesturing back and forth as if to be asking the crowd where someone was located. One of our Freshmen Football coaches who were seated in the stands, walked down the bleachers, and talked to the individual. The coach pointed in my direction and the individual began to walk towards me, still on the track.

When he was directly below me, he indicated that I was the person he was looking for and motioned me to him. I walked down, thinking he was either a parent of one of my athletes or a representative of Clark High School.

He introduced and identified himself as Trustee Childs. Upon getting a closer look I recognized him and identified myself as Tim Jackson, Athletic Administrator at Durango High School.

Immediately after the introductions, Trustee Childs stated the following: "What are you going to do about these football players kneeling during the national anthem?"

For background purposes, there have been a number of Durango Football players that have taken a knee during the national anthem in support of NFL player Colin Kaepernick's protest of the treatment of minorities in the US. When Durango Athletic personnel became aware of this potential protest, it was the decision of the Athletic Administration to not interfere with them or their right to peacefully protest. Furthermore, there was a team discussion held with a veteran of the Armed Services before the first occurrence

When Trustee Childs asked his question, my response was, "Sir, what exactly would you like me to do?" I expressed that they were not causing a disruption to the game or the activities leading up to the game. I also stated that what they were doing was not against school rules nor were they breaking the law. I went on to say that there really is nothing I can do.

Trustee Childs did not like this response. He made numerous statements, among which were the following:

"I know they think it's their rights, but these kids don't have rights, they can't vote."

"You don't do this at someone else's field, you can do this at Durango, they need to stand up."

8

"Did you serve? How can you let this happen?"

" I think I need to talk to them about this."

After each statement, I reiterated that there was nothing I could do or would do. I also told him my personal feelings on what they were doing and that I understood his point, but that I did not see how we could do anything about it.

At this point, Trustee Childs made a statement that caused me realize there was no rationalizing with him. He said the following:

"We gave them their freedom, what more do they want?"

This statement caused me great grief, because I took it to be a racist statement at the very least.

After a few more statements, Trustee Childs expressed to me that he would "be talking to Pat (Skorkowsky) and Trustee Edwards about this situation".


He then left and walked towards the south end zone where the Clark teaching staff was seated for a cook out

As the game progressed, I began to worry that Trustee Child may attempt to talk to the team after the game when they do their post-game talk in the end zone. As the game neared its conclusion, I made my way to the field. I informed the head coach (MG) that I wanted him to get the team off the field as quickly as possible.

As I was monitoring the "end of game handshake" with the coaching staff, our trainer (BH) informed me that Trustee Child had actually been amongst the team on our sidelines right after half time, at the start of the third quarter.

Apparently when I noticed him approaching the fence, he had just left our team sidelines. The trainer (BH) informed me that Trustee Child was asking about our team "kneeling during the National Anthem".

Durango Football left the field and boarded the bus without incident.



Timothy J. Jackson, CMAA
Athletic Administrator
Durango High School

10/10/16
Date

7/25/16

To Whom It May Concern:

As a school district employee, I was very saddened by what transpired last week. While at work, Kevin Child said that he would be personally attacking the Superintendent and CCSD for their efforts in the re-organization. He mentioned that the board met with their attorney and they think the Superintendent is doing too much and would be potentially taking action against him and his team. As an employee, I write this confidentially as I fear a hostile work environment. I just think that you should know what is taking place as he wants to attack the district in a way that I do not think is fair.

Thanks.



RECEIVED

JUL 27 2016


SUPERINTENDENT'S OFFICE

026
CCSD B 026




RA185

From:  Patrick Skorkowsky 
"Pat Skorkowsky" <psorkowsky@interact.ccsd.net>
rachel.douglas11@yahoo.com
rachel.douglas11@yahoo.com

Subject: Fwd(2): Resignation of Rachel Douglas effective Immediately

To:  Linda E. Young - Trustee

Cc:

Attachments:  Attach0.html / Uploaded File (10K)  Attach0.html / Uploaded File (7K)
 Attachments_201683.zip / Uploaded File (777K)

----- Original Message -----

FYI.

----- Original Message -----

From: Rachel Douglas <[mailto:rachel.douglas11@yahoo.com]
[rachel.douglas11@yahoo.com]>
Rachel Douglas <[mailto:rachel.douglas11@yahoo.com] [rachel.douglas11@yahoo.com]>
August 3, 2016 8:21:27 AM
Subject: Resignation of Rachel Douglas effective immediately
To: Pat Skorkowsky [mailto:JLK531@interact.ccsd.net]
JLK531@interact.ccsd.net View in Browser
Attachments: Attachments_201683.zip Uploaded File 777K

To Whom It May Concern,

It is with a heavy heart that I inform you that I am immediately resigning from my social studies position at Rancho High School. I am very thankful for the opportunity to teach a wonderful group of bright and respectful students during the school year of 2015-2016. I will look back fondly of my experiences with each of them

Recently, my significant other and I have had to make some important career decisions that will affect our futures. While I wanted very much to stay and teach the next group of amazing students at Rancho High School, there were many reasons for my decision to leave the Clark County School District.

Following the recent events these past few weeks in which unarmed black men were killed by police officers, many people have taken to the streets in protest. This may seem like an insignificant item to mention, but as a social studies teacher watching current events are extremely important as these issues will be discussed in the classroom in the upcoming school year. It was brought to my attention that a board of trustee member of District D, Kevin L. Child posted some insensitive remarks on social media. I have attached screen shots for you to see yourself. When this was discovered, many teachers were appalled. A few teachers started a petition to have him removed. Many teachers want to speak up but are fearful of retaliation. With a person in this position of power such as Mr. Child, there is no excuse for acting unprofessional on social media. What concerns me was that while this person is an elected official with CCSD, he does not feel his comments or actions have any bearing on his job whatsoever or he would not have posted the statements or questions. Teachers have been fired for posting racist or unprofessional comments on social media. Sadly, I do not want to work for a school district that doesn't take these kinds of actions seriously. Why is his behavior acceptable? Clark County School District is the fifth largest school district in the country and with that comes many challenges. However, some of the most critical positions in CCSD lie at the top leadership level. It saddens me that poor leadership would allow this type of behavior. Why are people so afraid to speak out when someone is wrong? Those are questions you should be asking teachers and other employees of CCSD.

There are many reasons why I have decided not to return to CCSD, Kevin L Child being one of them. A new teacher contract was approved this school year which increased salaries for most teachers. This however came at a price. I was informed that because the salaries for teachers need to be increased we can no longer afford the same number of teacher positions as the budget is not increasing, which means class sizes will increase. My average class size at Rancho High School this last year was forty students. I was told that this coming year that class sizes will be 50+. How are teachers supposed to manage that? Just when teachers think they are finally getting something they deserve they still get walked on. This is also true for new teacher sign-on bonuses. We are required to complete several hours of professional development to earn that money. Yes there are much more challenging issues in CCSD and if I was in the school district longer I am sure my letter would be several pages long. But in the end the top leaders are the ones failing teachers and ultimately the most important individuals - the students. When top leaders in power cannot provide a good working environment for

From:

 Cindy Krohn

Tuesday, August 16, 2016 5:44:06 PM



Subject:

Fwd: PTA training at Chaparral HS

To:

 Joe Caruso

FYI

----- Original Message -----

Board of School Trustees c/o Trustee Child

Good evening Mr. Child,

This morning I was at the PTA breakfast at Chaparral HS with my PTA group and my daughter. you came to said hi and asked what school we represented, then asked my daughter about the book that she was reading, she didn't answer to you, closed her book and hide it, I told you that she was shy.

She is not a misbehaving child, she is autistic, her social skills are a deficit. I felt so embarrassed when you mentioned that you can fix the problem if you have her for a fun time and other comments that I just hear and my reaction was just smile to you, this happened in front of other people, as a special education mom and having a Autistic girl that is not easy to explain to every body her condition Please understand that an Autistic child doesn't interact with unfamiliar people.

Sincerely,



029

CCSD B 029

RA188



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
Las Vegas Branch 1111

3065 El Rancho Dr. Suite 154 ♦ Las Vegas, Nevada 89130 ♦ Phone (702) 638-1300 ♦
Fax (702) 369-1342 ♦ Website: www.naacplv.org

Roxann McCoy, President

Dear Clark County Board of Trustees,

We were recently shocked to see that Clark County School District Board of Trustee Kevin Child (District-D), posted this outrageous question on his Face book page last Thursday:

"If protesters are in the road and blocking it and not in the crosswalk...would you run them over?"

This suggestive question followed several days of highly publicized protests around the nation, many of which were organized by Black Lives Matter groups to express their anger at the disproportionate number of deaths of black men shot by police officers.

It is outrageous that an elected official, charged with ensuring the safety and wellbeing of children, would tacitly encourage violence against people expressing their constitutionally guaranteed rights of speech. What if students and parents took to the streets to protest policies of this school board? Would Trustee Child question whether drivers should target those protestors as well? His post demonstrates incredibly poor judgment and causes many of his constituents to question whether he can effectively carry out the duties of his office. Violence, and its encouragement, should never be condoned as an appropriate course of action by anyone, especially an elected representative.

Because the public deserves a representative that understands and supports the rights we are all guaranteed under the constitution, and respects the lives of those with whom they may agree or disagree. We urge the Clark County School District Board of Trustees to reiterate their support for valuing constitutional rights and human life and condemning violence by holding Trustee Child accountable for these outrageous, violence inducing comments.

Left unaddressed, Trustee Child's harmful and inappropriate remarks call into question the nation's fifth largest school district's commitment to public debate, and safety of those who may disagree with its policies. Mr. Child is a public figure whose words and actions have consequences. Trustee Child's right to express himself is guaranteed under the Constitution as well, but encouraging violence is not protected speech.


Our children are repeatedly taught about their right to question government action and their right to rise up in protest - from the Boston Tea Party to the march from Selma to Montgomery - protest is a cornerstone of democracy. Trustee Child's post, however, teaches children a very different message. It is up to this Board to act. You must show the parents and students of Clark County that the values demonstrated by Trustee Child are not the values the Clark County School Board of Trustees.

We hope you take swift and meaningful action to address this issue.

Respectfully submitted,

030
CCSD B 030

From:  **Cindy Krohn**
angiesullivan0@gmail.com

Thursday, July 21, 2016 10:09:43 AM 

Subject: Fwd: Kevin Child's Facebook Posts

To:  angiesullivan0@gmail.com

Cc:  CCSD Trustees

Bcc:  Joe Caruso

The School Board Office is in receipt of your e-mail and has forwarded it to all Trustees as well as the Superintendent's Office. Thank you for writing the Clark County School District.

Cindy Krohn
Clark County School District
Office of the Board of School Trustees
702-799-1072

----- Original Message -----

Board of School Trustees c/o Trustee All

Over 500 people sign this petition.


Kevin Child should resign.

<https://www.change.org/p/ccsd-board-members-resign-ccsd-trustee-kevin-child>

No Justice, No Peace

Angie Sullivan
angiesullivan0@gmail.com

From:  caanola@aol.com

Saturday, July 16, 2016 1:17:01 PM 

Subject: Please resign immediately

To:  School Board Mail



Board of School Trustees c/o Trustee Child

Apologize and resign immediately from the board You are not worthy of the position and the children and the county deserve better

And, by the way the word "english" is capitalized like this: "English"

Craig Andersen

From:  hlwj@embarqmail.com

Saturday, July 16, 2016 7:44:18 AM  

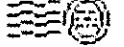
Subject: Running Over Protestors

To:  School Board Mail

Board of School Trustees c/o Trustee Child

Your question asking people if they would run over protestors is repugnant and you are ill, very ill and need mental health help Are you aware that The U S Constitution provides rights for citizens to protest? I doubt that you are aware of many aspects of your miserable life You should resign immediately!

EXHIBIT C

From:  Jillvn PendletonThursday, June 04, 2015 9:23:44 AM 

Subject: Fwd: Concerns

To:  April L. Key

Please see below. Again, we are hesitant to report these issues because we don't want to alienate our Trustee, but his behavior continues to be an issue. He was here again today.

Jill Pendleton
Principal, Clark High School
799-5800 x. 4100

----- Original Message -----

Ms. Pendleton,

I am writing today because of a specific concern I have regarding the visitation of our trustee. I understand it is important for the school board to connect with the students in their district, however, I feel that Trustee Childs has overstepped the bounds of mere connection. The fact that he attended our Aloha dance, in full, made me very uncomfortable. Here is a grown man interacting with students on an overly familiar level: dancing, chatting, gossiping, etc. It is inappropriate for an adult to tell children how "beautiful" they are and to try to connect with these students on a personal level. While Mr. Childs may have an investment in our region, a discussion should be had regarding how personal he gets with the students. I had several of my student council kids confide in me that he made them uncomfortable. He has been at every major student council event and has taken selfies with them and tried to, for lack of a better way to phrase it, befriend them on a personal level.

You know that I am all about student engagement and making sure that our students feel safe and comfortable at all times. I just feel that this level of interaction was too much and too inappropriate on so many levels. I would appreciate it if his visits were more limited and if he didn't interact with our students on a personal level. He is a grown-up and may need to be reminded of appropriate interactions regarding underage students.


Thank you for your time and consideration in reading this email. I am truly concerned and wanted to pass my concerns along.

Sincere regards,


Ed W. Clark High School ~ 


"Around here, however, we don't look backward for very long. We keep moving forward, opening up new doors and doing new things, because we're curious and curiosity keeps leading us down new

From:  ImmerLiza U. Ravalo

Thursday, March 10, 2016 4:11:27 PM 

Subject: fallout?

To:  Deborah Bunse

you sent the email to the teachers in trustee childs' paybac? any responses?
complaints?
how's student that you pulled to do begin protocol/

(FYI i saw my old boss last night and shared with him...)

Can we count on your support for Nevada's Big Give on March 10, 2016? Plan on rallying your friends and supporting Robison Middle School SOCCER. Start now by adding a reminder to your calendar at <https://nvbiggive.razoo.com/us/story/Dell-H-Robison-Middle-School-Soccer>.

Immer Liza U. Ravalo

Assistant Principal

Dell H. Robison Middle School


Clark County School District

825 Marion Drive | Las Vegas | Nevada | 89110

Tel: 702-799-7300 | Fax: 702-799-7302 | ravalo@interact.ccsd.net

WAN: 0334-4203




From:  Deborah BunseFriday, March 11, 2016 7:27:44 AM 

Subject: Re: fallout?

To:  ImmerLiza U. Ravallo

ImmerLiza U. Ravallo writes:

you sent the email to the teachers in trustee childs' paybac? any responses? complaints? Feedback was not only two references to the mention of suicide but also his personal possessions. What was related to me made it sound like he was bragging. I think I get what he was trying to convey; so, in and of themselves the comments or his thinking was on the right path. He could have just phrased his presentation (not so personal w/the wife's suicide) in another manner. Make sense? how's student that you pulled to do begin protocol/ I completed the initial screener only ---no imminent risk. Not even moderate. However, due to issues that came out I was glad  was concerned and that I met w/the student. The parent was contacted, we had a conference w/parent & student and recommendations made. We do have to add screeners to pg. 5 which is also completed. It was refreshing to meet a parent who was very appreciative of the intervention and who I believe will follow through.

(FYI i saw my old boss last night and shared with him...)

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Immer Liza U. Ravallo

Assistant Principal

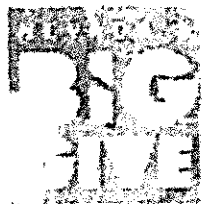
Dell H. Robison Middle School

Clark County School District

825 Marion Drive | Las Vegas | Nevada | 89110

Tel: 702-799-7300 | Fax: 702-799-7302 | ravallo@interact.ccsd.net

WAN: 0334-4203




Deborah Bunse
Counselor


Dell H. Robison M. S.
799-7300, ext. 4303
DMB334@interact.ccsd.net


CCSD C 004

RA197

From:  ImmerLiza U. Ravalo
Deborah Bunse

Subject: Fwd: Re: fallout?

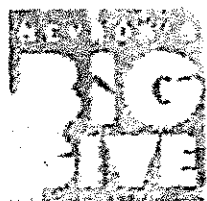
To:  Elena G. Baker Principal

Friday, March 11, 2016 10:40:27 AM 

just keeping you in the loop-checking up with bunse re: paybac

*Thank you to all of our donor support for Nevada's Big Give on March 10th. We **didn't reach our big goal online, but we made a dent and** You can **STILL** help us by rallying your friends and supporting Robison Middle School SOCCER through a direct donation to the team--and we will try again next year!! Contact me or 702-799-7300.*


Immer Liza U. Ravalo
Assistant Principal
Dell H. Robison Middle School
Clark County School District
825 Marion Drive | Las Vegas | Nevada | 89110
Tel: 702-799-7300 | Fax: 702-799-7302 | ravalo@interact.ccsd.net
WAN: 0334-4203



----- Original Message -----

From: Deborah Bunse Friday, March 11, 2016 7:27:44 AM
Subject: Re: fallout?
To: ImmerLiza U. Ravalo

ImmerLiza U. Ravalo writes:

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Immer Liza U. Ravallo

Assistant Principal

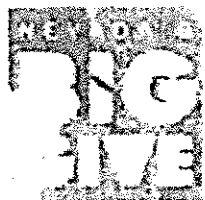
Dell H. Robison Middle School

Clark County School District

825 Marion Drive | Las Vegas | Nevada | 89110

Tel: 702-799-7300 | Fax: 702-799-7302 | ravallo@interact.ccsd.net

WAN: 0334-4203



Deborah Bunse

Counselor

Dell H. Robison M. S.

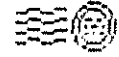
799-7300, ext. 4303

DMB334@interact.ccsd.net

From:



Friday, December 09, 2016 8:12:53 AM



Subject:

statement about K.C.

To:

Lea D. Chua

Mrs. Chua,


Could you please keep this statement completely anonymous?

With everything that I have been seeing on the news about Trustee Childs, I wanted to pass along some information that happened with him 2 years ago. I'm not sure if this is relevant since it happened so long ago, but I saw on the news he is denying the complaints written about him. In 2014 he came into my 2nd grade classroom and introduced himself. He was talking to the students and asked them to "finish this sentence... Snitches get what?" Students did not answer. He finished the saying and told them "snitches get stiches! That's a saying they use in prison. It means if you tattle on someone, you're going to get punished for it." The kids began to look very worried and I told them he was just joking around. The kids did not laugh. He went on to give a statistic saying 1 in every 20 or so students end up in jail, and since there were about 20 students in my classroom, that one of them was going to end up in jail. Again, I tried lightening the mood by telling my students he was joking, but they did not find it funny. Thank you.

Grade

Gene Ward Elementary School
(702) 799-5650

From:  Kimberly S. Mangino

Thursday, November 10, 2016 12:45:04 PM 

Subject: article

To:  Susan M. Unaite

Administrators union files complaint citing retaliation in talks with CCSD
Las Vegas Review-Journal
Nov. 9, 2016

The Clark County school administrators union has filed a labor complaint against the school district after nearly 18 months without a contract, accusing officials of retaliation against the union for its support of the mandated district reorganization.

The Clark County Association of School Administrators and Professional-Technical Employees also claims that District D Trustee Kevin Child threatened the group's executive director with physical violence over the union's stance on the reorganization law, AB394.

Union members last saw a retroactive salary raise in 2014, before the contract for roughly 1,300 employees expired last year.

While district trustees have delayed negotiations, the teachers and police unions have received favorable contracts, the union wrote in its Oct. 20 complaint filed with the Employee-Management Relations Board.

According to the complaint, the district is retaliating against the union for its stance on the decentralization of the district, noting that trustees and the union "have differing viewpoints on the benefits and implementation of AB394."

The union — which represents principals, central office administrators and professional technical employees — has said it supports the reorganization, which will give more power to individual schools, allowing principals and school organizational teams to craft the school's budget and giving less power to the district's central office.

The union also claims that trustees are stalling on negotiations until the district adopts its new decentralized model.

In a statement, the school district said it has been experiencing budget constraints during negotiations with the union and all other district unions.

"CCSD values its employees and any allegation that we would retaliate through our bargaining process is unfounded," spokeswoman Michelle Booth said in a statement.

Stephen Augspurger, the union's executive director, declined to comment on the matter as contract negotiations head to arbitration next month.

But at a school board meeting in August, he said Child threatened him twice after discussing AB394.

"He said, 'Steve, I am so mad at you, I'm going to kick your ass,'" Augspurger told the trustees during the public comment period.

In another instance, Augspurger said, Child told him the district would settle the contract for the support staff union with no money left for administrators.

Child said he never threatened Augspurger, calling the accusation completely false.

"I respect the office, I respect people," he said.

Contract negotiations with school district unions have been an obstacle since the district faced a \$67 million budget deficit last year.




Support staff, who had also gone years without salary step increases, just had their contract finalized on Tuesday after negotiations also went to arbitration.

The union is calling on the district to provide reasons for rejecting previous contract proposals and negotiate a 2015-2017 contract in good faith. The district has not yet filed a response with the labor board.


<http://www.reviewjournal.com/news/education/administrators-union-files-complaint-citing-retaliation-talks-ccsd>




Kimberly S. Mangino
Assistant Chief Student Achievement Officer
Performance Zone 2
702-799-1719

Every individual matters. Every individual has a role to play. Every individual makes a difference.
~ Jane Goodall

From:  Katie N. Hougland Tuesday, January 31, 2017 11:13:05 AM  

Subject: Case ID#12200 (Cashman MS)

To:  Felicia N. Gonzales



Cc:  Rosanne Richards  Brianna D. Mills  Diana McAllister


Hello,

On behalf of Dr. Barton, please address the following concern received in the Superintendent's Office. Please send your response to Rosanne Richards and copy myself at which time the concern can be closed.


Thank you.

Katie Hougland, Secretary III
Academic Unit
5100 West Sahara Avenue
Las Vegas, NV 89146
Phone: 702-799-5475
WAN: 0015-5558
Fax: 702-799-5199
Original Message:

CASE ID#: 12200
Customer: 
School Name: Cashman MS
Student: N/A
Phone: 702-

Ms.  wanted clarification on the policies regarding Trustee interaction with parents and Trustee attendance of School Organizational Team meetings. She expressed belief that Trustee Child had spoken to her unprofessionally and attended a previous meeting to intimidate her.

From:  Felicia N. Gonzales

Friday, February 03, 2017 4:15:14 PM 

Subject: Re(3): Fwd: Case ID#12200 (Cashman MS)

To:  Mike R. Barton

Mike,



I do not feel comfortable calling a parent regarding a complaint about a trustee and asking for a letter as if I was the one investigating. Why can't Joe call the parent and ask her for this?

Please advise. Thanks.

Felicia Gonzales
Associate Superintendent - PZ6
(702)799-2640

Joe Caruso writes:

Hi, Felicia,

As a follow-up to the below e-mail, the superintendent has asked if you would contact Ms.  and request that she write a letter regarding her concerns with Trustee Child. Once you receive the letter from Ms.  please e-mail it to me and I will provide the letter to the superintendent.

Thank you in advance for your assistance.

Have a good weekend!

Joe

Joe Caruso writes:

Hi, Felicia,



Thank you for the e-mail and information. I will share the below information with the superintendent and follow-up with you once I receive guidance on how to proceed.

Have a good afternoon!

Joe

Felicia N. Gonzales writes:

Joe,

We addressed Ms.  request for clarification on Ms.  wanted clarification on the policies regarding Trustee interaction with parents and Trustee attendance of School Organizational Team meetings.

Rosanne advised me to forward the second part to you to address regarding She expressed belief that Trustee Child had spoken to her unprofessionally and attended a previous meeting to intimidate her.

Here is some info on what this may be related to:

Ms. [REDACTED] invited him to a PTA formation meeting on December 15 (cleared by your office for this specific purpose) and then disinvited him in front of the assistant principal and a parent right before the meeting. According to the assistant principal, Sindy Biernacki, he explained to Ms. [REDACTED] that she invited him to ensure the school was not interfering with the PTA process and that he plans to sit in the meeting, which he did along with a FACES rep and Julie Williams from Nevada PTA.

Felicia Gonzales
School Associate Superintendent
Performance Zone 6
Clark County School District
(702) 799-2640

----- Original Message -----

Hello,

On behalf of Dr. Barton, please address the following concern received in the Superintendent's Office. Please send your response to Rosanne Richards and copy myself at which time the concern can be closed.

Thank you.

Katie Hougland, Secretary III
Academic Unit
5100 West Sahara Avenue
Las Vegas, NV 89146
Phone: 702-799-5475
WAN: 0015-5558
Fax: 702-799-5199
Original Message:

CASE ID#: 12200
Customer: [REDACTED]
School Name: Cashman MS
Student: N/A
Phone: 702 [REDACTED]

Ms. [REDACTED] wanted clarification on the policies regarding Trustee interaction with parents and

Trustee attendance of School Organizational Team meetings. She expressed belief that Trustee Child had spoken to her unprofessionally and attended a previous meeting to intimidate her.

From: [REDACTED] Ramona J. Esparza

Friday, February 03, 2017 11:02:38 AM 

Subject: Site Visit- [REDACTED]

To: [REDACTED] Mike R. Barton

Cc: [REDACTED] Celese R. Rayford

Attachments: [REDACTED] R Esparza Memo 2-3-17.pdf / Adobe Acrobat Document (51 KB)

Dr. Barton,

Please see attached memo regarding Trustee Childs site visit on 1-30-17.

Again, thank you for your unyielding support and let me know if you need any additional information.

Regards,

High School

MEMO

Date: February 3, 2017

To: Mike Barton, Chief Academic Officer

From: [REDACTED] High School

Subject: Site Visit

On January 30, 2017, Trustee Kevin Child and Dr. Mike Barton, Chief Academic Officer, visited [REDACTED] High School at 7:00 a.m. I inquired about the nature of the site visit. Trustee Child stated he received parent concerns about the gym and boys' restroom. Please note I have not received any parent concerns of that nature. During the site visit, the following areas were observed:

1. Cafeteria
2. Main gym – no evidence of facility repairs in the main gym
3. Boys' restroom near the auxiliary gym- no soap dispensers were evident (work request has been submitted 1/31/17). Mirrors had evidence of scratches (mirrors will be either replaced and/or removed).
4. Garden Area
5. Library
6. JROTC classroom observation
7. Main office

Note: Trustee Child stated to Dr. Barton there were concerns regarding Spanish books. Upon investigation with the administrator that supervises the Foreign Language Department, it was determined there are sufficient Spanish books. For the 2016-17 school year, Spanish supplemental texts were ordered.

Upon exiting the premises at 8:10 a.m., Trustee Child stated that he was here to support me and to let him know what I needed.

I am requesting that this memo serve as a record of this site visit. Although I was notified prior to this request to visit, I was not comfortable with the protocol that Trustee Child used to obtain access to viewing "alleged parent concerns about the facility." Upon review of the areas, there were no imminent

[REDACTED]

High School

safety or hazard concerns regarding the condition of the facility. The facility is over fifty years old; cleanliness and maintenance is a priority at [REDACTED] HS.

I need it to be noted that contrary to Trustee Childs' statement that he is here to support me, I have been notified by the following entities: staff, parents, and community partners that Trustee Child has repeatedly in public settings made negative and disparaging remarks about [REDACTED] High School and me (personally.) It is my belief that his intentions are neither positive nor conducive in creating an environment that is supportive of the necessary work that I am doing as a high school [REDACTED]

[REDACTED]

High School

2/3/17
Date

From:

[REDACTED]

Thursday, February 16, 2017 9:07:41 AM



Subject:

Trustee Kevin Child

To:

Jeffrey J. Geihs

Cc:

[REDACTED]

Dr. Geihs...

I am sending this to you based upon the recent directive that came from the Superintendent's office.

On Monday, February 13, 2017, I arrived for my first day as [REDACTED] Elementary School. Later that morning, Trustee Kevin Child arrived. He told me he was there for his regularly scheduled parent meeting that was to start at 9:00 am. I accompanied Trustee Child to that meeting so that I could meet parents. The meeting was also attended by Associate Superintendents Lorna James-Cervantes and Jeff Horn, along with Joe Caruso. The main topic for the meeting was child safety for arrival and departure at school. It was a good meeting with great information.

Trustee Child introduced me and allowed me to speak with parents. I had to leave the meeting before it was over in order to attend to the business of the school. The assistant principals and other staff remained in the meeting.

When the assistant principal returned to the office, he gave me the following information:

"On 2/13/17 I had the privilege to attend a parent meeting at [REDACTED] Elementary School site conducted by Mr. Kevin L. Child. The major focus of the meeting was how to keep our children safe to and from school. After this portion of the discussion was over he conducted a question/answering session. After bringing closure to the discussion I thought the meeting was over. As I was getting up to leave he requested to see a show of hands who in the past have experienced difficulty in acquiring satisfaction from the office staff. After seeing a show of hands, he declared he would take care of the situation and they shouldn't have any more problems. I felt this was not the reason for his visitation and therefore should never have been brought up."

Additionally, I received staff complaints regarding noise from the cafeteria after the Parent meeting ended. Staff informed me that Trustee Child stopped in the cafeteria and spoke to the children who were having lunch. I was told that he held a repeat-after-me conversation with the children, thus the noise that was heard in other classrooms during instructional time. Staff said the children were **screaming** their responses, encouraged by Trustee Child. As Trustee Child was leaving, he was eating food from the cafeteria. I only mention this because that is a strict violation of USDA guidelines.

I am seeking your advice and direction in this matter with Trustee Child. He indicated to parents that he plans to come and have a potluck dinner with them. He also instructed me to

CCSD C 017

hold a School Organizational Team (SOT) meeting regarding arrival and departure. He said he will attend the meeting, and he plans to bring a mariachi band. Since being here, we have already solved the arrival and departure issues. The parents are quite happy and complimentary. I cannot accommodate a mariachi band during an SOT meeting.

I respect Trustee Child's position as a School Board Member, but I need the freedom to develop a relationship with parents as a new employee here at [REDACTED] I will await your directions on how to proceed.

[REDACTED]

The difference between genius and stupidity is that genius has its limits.

Einstein

From: [REDACTED]
Subject: Fwd: Trustee Kevin Child
To: [REDACTED] Lorna M. James-Cervantes

Thursday, February 16, 2017 9:56:58 AM



Lorna...

So sorry I forgot to copy you o this.

[REDACTED]

[REDACTED]

[REDACTED] Elementary School

The difference between genius and stupidity is that genius has its limits.

Einstein

----- Original Message -----

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I am seeking your advice and direction in this matter with Trustee Child. He indicated to parents that he plans to come and have a potluck dinner with them. He also instructed me to hold a School Organizational Team (SOT) meeting regarding arrival and departure. He said he will attend the meeting, and he plans to bring a mariachi band. Since being here, we have already solved the arrival and departure issues. The parents are quite happy and complimentary. I cannot accommodate a mariachi band during an SOT meeting.

I respect Trustee Child's position as a School Board Member, but I need the freedom to develop a relationship with parents as a new employee here at [REDACTED]. I will await your directions on how to proceed.

[REDACTED]


[REDACTED]

[REDACTED] Elementary School
[REDACTED]

The difference between genius and stupidity is that genius has its limits.

Einstein

From:  Lorna M. James-Cervantes

Thursday, February 16, 2017 10:16:26 AM 

Subject: Fwd(2): Trustee Kevin Child

To:  Mike R. Barton

Cc:  Jeffrey J. Geihs

Mike,

I want to make sure you are aware of this situation from Trustee Child's PAC meeting. I was not aware of the situation in the cafeteria as I left after the meeting concluded, and thought he did too. Joe and I did tell him that it was up to the SOT to determine agenda items.

Lorna James-Cervantes
School Associate Superintendent, PZ5 and ZOOM Schools
702-799-2640

----- Original Message -----

From:  Thursday, February 16, 2017 9:56:58 AM

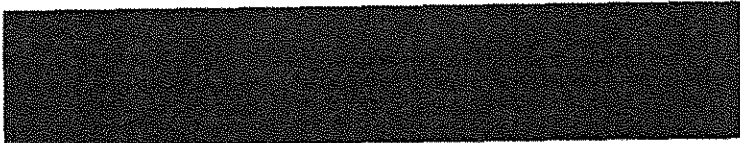
Subject: Fwd: Trustee Kevin Child

To: Lorna M. James-Cervantes

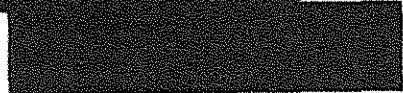
Lorna...

So sorry I forgot to copy you o this.





 Elementary School



The difference between genius and stupidity is that genius has its limits.

Einstein

----- Original Message -----

Dr. Geihs...

I am sending this to you based upon the recent directive that came from the Superintendent's office.

On Monday, February 13, 2017, I arrived for my first day as [REDACTED] Elementary School. Later that morning, Trustee Kevin Child arrived. He told me he was there for his regularly scheduled parent meeting that was to start at 9:00 am. I accompanied Trustee Child to that meeting so that I could meet parents. The meeting was also attended by Associate Superintendents Lorna James-Cervantes and Jeff Horn, along with Joe Caruso. The main topic for the meeting was child safety for arrival and departure at school. It was a good meeting with great information.

Trustee Child introduced me and allowed me to speak with parents. I had to leave the meeting before it was over in order to attend to the business of the school. The assistant principals and other staff remained in the meeting.

When the assistant principal returned to the office, he gave me the following information:

"On 2/13/17 I had the privilege to attend a parent meeting at [REDACTED] Elementary School site conducted by Mr. Kevin L. Child. The major focus of the meeting was how to keep our children safe to and from school. After this portion of the discussion was over he conducted a question/answering session. After bringing closure to the discussion I thought the meeting was over. As I was getting up to leave he requested to see a show of hands who in the past have experienced difficulty in acquiring satisfaction from the office staff. After seeing a show of hands, he declared he would take care of the situation and they shouldn't have any more problems. I felt this was not the reason for his visitation and therefore should never have been brought up."

Additionally, I received staff complaints regarding noise from the cafeteria after the Parent meeting ended. Staff informed me that Trustee Child stopped in the cafeteria and spoke to the children who were having lunch. I was told that he held a repeat-after-me conversation with the children, thus the noise that was heard in other classrooms during instructional time. Staff said the children were **screaming** their responses, encouraged by Trustee Child. As Trustee Child was leaving, he was eating food from the cafeteria. I only mention this because that is a strict violation of USDA guidelines.

I am seeking your advice and direction in this matter with Trustee Child. He indicated to parents that he plans to come and have a potluck dinner with them. He also instructed me to hold a School Organizational Team (SOT) meeting regarding arrival and departure. He said he will attend the meeting, and he plans to bring a mariachi band. Since being here, we have already solved the arrival and departure issues. The parents are quite happy and complimentary. I cannot accommodate a mariachi band during an SOT meeting.

I respect Trustee Child's position as a School Board Member, but I need the freedom to develop a relationship with parents as a new employee here at [REDACTED] I will await your directions on how to proceed.

[REDACTED]

[REDACTED]

[REDACTED] Elementary School
[REDACTED]

The difference between genius and stupidity is that genius has its limits.

Einstein

From: Jeffrey J. Geihs

Thursday, February 16, 2017 10:34:37 AM



Subject: Re: Trustee Kevin Child

To:

Cc:



Pat Skorkowsky

Mike R. Barton

Attachments: Memo to Staff Guidelines for Trustee Visit 12.05.16.pdf / Portable Document Form...



Thank you for this correspondence. Thank you too for your service at [REDACTED] Elementary School as [REDACTED]. Your leadership there gives me a great sense of confidence. In reference to the guidance/direction you seek, please see attached a memorandum that was sent to principals in Trustee Child's District from Superintendent Skorkowsky. Please follow this direction as specified in the memo. As you are also aware, Trustee Child cannot give you directions; therefore, you are not required to follow such as you stipulated below. I have copied the Superintendent and Dr. Barton here so that they too are aware of this latest circumstance.

Please call me should you have further questions.

Thank you,

Jeff

Dr. Jeffrey Geihs
School Associate Superintendent, Turnaround Zone
President Elect, Nevada Association of School Administrators
jgeihs@interact.ccsd.net
Office: (702) 799-2640

www.ccsdturnaroundzone.net
Facebook - CCSD Turnaround Zone
Twitter - @CCSD_Turnaround

[REDACTED] writes:

Dr. Geihs...

I am sending this to you based upon the recent directive that came from the Superintendent's office.

On Monday, February 13, 2017, I arrived for my first day [REDACTED] Elementary School. Later that morning, Trustee Kevin Child arrived. He told me he was there for his regularly scheduled parent meeting that was to start at 9:00 am. I accompanied Trustee Child to that meeting so that I could meet parents. The meeting was

also attended by Associate Superintendents Lorna James-Cervantes and Jeff Horn, along with Joe Caruso. The main topic for the meeting was child safety for arrival and departure at school. It was a good meeting with great information.

Trustee Child introduced me and allowed me to speak with parents. I had to leave the meeting before it was over in order to attend to the business of the school. The assistant principals and other staff remained in the meeting.

When the assistant principal returned to the office, he gave me the following information:

"On 2/13/17 I had the privilege to attend a parent meeting at [REDACTED] Elementary School site conducted by Mr. Kevin L. Child. The major focus of the meeting was how to keep our children safe to and from school. After this portion of the discussion was over he conducted a question/answering session. After bringing closure to the discussion I thought the meeting was over. As I was getting up to leave he requested to see a show of hands who in the past have experienced difficulty in acquiring satisfaction from the office staff. After seeing a show of hands, he declared he would take care of the situation and they shouldn't have any more problems. I felt this was not the reason for his visitation and therefore should never have been brought up."

Additionally, I received staff complaints regarding noise from the cafeteria after the Parent meeting ended. Staff informed me that Trustee Child stopped in the cafeteria and spoke to the children who were having lunch. I was told that he held a repeat-after-me conversation with the children, thus the noise that was heard in other classrooms during instructional time. Staff said the children were **screaming** their responses, encouraged by Trustee Child. As Trustee Child was leaving, he was eating food from the cafeteria. I only mention this because that is a strict violation of USDA guidelines.

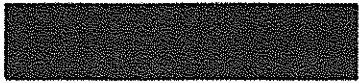
I am seeking your advice and direction in this matter with Trustee Child. He indicated to parents that he plans to come and have a potluck dinner with them. He also instructed me to hold a School Organizational Team (SOT) meeting regarding arrival and departure. He said he will attend the meeting, and he plans to bring a mariachi band. Since being here, we have already solved the arrival and departure issues. The parents are quite happy and complimentary. I cannot accommodate a mariachi band during an SOT meeting.

I respect Trustee Child's position as a School Board Member, but I need the freedom to develop a relationship with parents as a new employee here at [REDACTED]. I will await your directions on how to proceed.

[REDACTED]

[REDACTED]

[REDACTED] Elementary School



The difference between genius and stupidity is that genius has its limits.

Einstein

EXHIBIT D

CLARK COUNTY SCHOOL DISTRICT
LVRJ v. CCSD - Case No. A-17-750151-W

Bates No.	Date	Author	Recipient	Document Type/ Subject Matter	Basis for Withholding
001-014, 016-020, 022-023	02/13/17	Various CCSD employees (redacted), Superintendent Pat Skorkowsky, Isaac Stein, Linda Burns	Pat Skorkowsky, Various CCSD administrators (redacted)	E-Mails, Kevin Childs	NRS 239.010; NRS 386.350; CCSD Regulation 1212; 4110; safety and well-being of employees (fear of retaliation) and inherent chilling effect if names of individual employees are released

Page #	Identity	Redactions
01	Adult 1	-Identity, school and position of writer -Identity of supervisor and one other administrator specifically identified
02	Adult 2	-Identity and school of person making request -Identity of persons (2) forwarding request
03	Adult 3	-School event occurred at -Identity of persons (2) providing information and positions; Identity of teacher -Identity of writer
04	Adult 3	-Identity of schools (3)

		<p>School 1 – Identity of supervisor and person and position that was to be notified</p> <p>School 2 – Identity and position of person reporting and person reported too</p> <p>School 3 (same as page 03) – Identity of persons (2) providing information and positions; Identity of teacher; Identity of persons (3) information provided too</p>
05	Adult 3	<p>Identity of schools (2)</p> <p>School 1 - Room at school event occurred; Identity of person information provided too</p> <p>School 2- Identity and position of person providing information; Room at school event occurred and teacher; Identity of person information provided too</p>
06-07	Adult 4	<p>-Identity of writer</p> <p>-Specific elected position referenced in bullet point 3 and identity of person that ran against writer; identity of person complaint made too</p>
08-09	Adults 5 and 6	<p>Top email – Identity of writer (Adult6) and recipient of email (Adult5)</p> <p>Bottom email (same as pages 10-11) – Identity of writer (Adult5); Specified elected position referenced in bullet point 2 and identities of persons running for that position</p>
10-11	Adult 5	<p>Same as “Bottom email” on pages 08-09</p> <p>– Identity of writer (Adult5) and person copied (Adult6); Specified elected position referenced in</p>

		bullet point 2 and identities of persons running for that position
12-13	Adult 7	Top email – Identity of recipient Bottom email (same as pages 14-15) – Identity of writer
14-15	Adult 7	Same as “Bottom email” on pages 12-13 – Identity of writer
16-17	Adult 8	Top email – Identity of recipient and copied to Bottom email (same as page 18-19) – Identity of writer
18-19	Adult 8	-Identity of writer and copied to
20	N/A	-Reason for Mr. Stein not being in attendance (not connected to the substance of this matter)
22	N/A	Same as page 20

EXHIBIT E

CLARK COUNTY SCHOOL DISTRICT
LVRJ v. CCSD - Case No. A-17-750151-W

*Note of clarification: All individuals previously identified as "Adult" are CCSD employees.

Bates No.	Date	Author	Recipient	Document Type/ Subject Matter	Basis for Withholding
001-014, 016-020, 022-023	As stated on docs	Various CCSD employees (redacted), Superintendent Pat Skorkowsky, Isaac Stein, Linda Burns	Pat Skorkowsky Various CCSD admini- strators (redacted)	E-Mails, Kevin Childs	NRS 239.010; NRS 386.350; CCSD Regulation 1212; 4110; safety and well-being of employees (fear of retaliation) and inherent chilling effect if names of individual employees are released
024-025, 027-029, 031-033	As stated on docs	Various CCSD employees (redacted) and members of general public	Board of Trustees CCSD	E-Mails and correspondence	NRS 239.010; NRS 386.350; CCSD Regulation 1212; 4110; safety and well-being of employees (fear of retaliation) and inherent chilling effect if names of individual employees and general public are released
034-041	10/5/16	Cedric Cole	Internal Draft	Confidential and Internal Investigative Memorandum	See attached correspondence dated March 13, 2017, for basis of withholding
042-048	1/28/16, 2/5/16, 2/9/16, 2/10/16, 2/26/16, 3/23/16, 3/30/16, 4/9/16, 9/7/16, 9/13/16, 9/23/16, 9/29/16 &	Cedric Cole	Internal Draft	Confidential and Internal Investigative Notes (typed)	See attached correspondence dated March 13, 2017, for basis of withholding

March 21, 2017

	10/4/16				
049-053	9/7/16, 9/13/16, 9/23/16, 9/29/16 & 10/14/16	Cedric Cole	None	* Confidential and Internal Investigative Notes (handwritten)	See attached correspondence dated March 13, 2017, for basis of withholding
054-057	10/19/16	Cedric Cole	Pat Skorkowsky Board of Trustees	Confidential Investigative Memorandum	See attached correspondence dated March 13, 2017, for basis of withholding
058-062	10/11/16, 10/24/16, 1/26/17 & 3/17/17	Cedric Cole	None	Confidential and Internal Investigative Notes (handwritten)	See attached correspondence dated March 13, 2017, for basis of withholding

*The handwritten notes were previously reduced to typewritten notes of the same dates contained in bates 042-048.

<i>Page #</i>	<i>Identity</i>	<i>Redactions</i>
<i>01</i>	Adult 1	-Identity, school and position of writer -Identity of supervisor and one other administrator specifically identified
<i>02</i>	Adult 2	-Identity and school of person making request -Identity of persons (2) forwarding request
<i>03</i>	Adult 3	-School event occurred at -Identity of persons (2) providing information and positions; Identity of teacher -Identity of writer
<i>04</i>	Adult 3	-Identity of schools (3)

March 21, 2017

2

CCSD-LOG-2 002

RA227

		<p>School 1 – Identity of supervisor and person and position that was to be notified</p> <p>School 2 – Identity and position of person reporting and person reported too</p> <p>School 3 (same as page 03) – Identity of persons (2) providing information and positions; Identity of teacher; Identity of persons (3) information provided too</p>
05	Adult 3	<p>Identity of schools (2)</p> <p>School 1 - Room at school event occurred; Identity of person information provided too</p> <p>School 2- Identity and position of person providing information; Room at school event occurred and teacher; Identity of person information provided too</p>
06-07	Adult 4	<p>-Identity of writer</p> <p>-Specific elected position referenced in bullet point 3 and identity of person that ran against writer; identity of person complaint made too</p>
08-09	Adults 5 and 6	<p>Top email – Identity of writer (Adult6) and recipient of email (Adult5)</p> <p>Bottom email (same as pages 10-11) – Identity of writer (Adult5); Specified elected position referenced in bullet point 2 and identities of persons running for that position</p>
10-11	Adult 5	<p>Same as “Bottom email” on pages 08-09</p> <p>– Identity of writer (Adult5) and person copied (Adult6); Specified elected position referenced in bullet point 2 and identities of persons running</p>

March 21, 2017

		for that position
12-13	Adult 7	Top email – Identity of recipient Bottom email (same as pages 14-15) – Identity of writer
14-15	Adult 7	Same as “Bottom email” on pages 12-13 – Identity of writer
16-17	Adult 8	Top email – Identity of recipient and copied to Bottom email (same as page 18-19) – Identity of writer
18-19	Adult 8	-Identity of writer and copied to
20	N/A	-Reason for Mr. Stein not being in attendance (not connected to the substance of this matter)
22	N/A	Same as page 20
24-25	Adult 9	-School event occurred at -Identity of coach and trainer -Identity of writer
27-28	Former Teacher 1	-Identity of writer -Identity of school -Superintendent’s e-mail address
29	Parent 1	-Identity of parent
31	Public member 1	-Identity of writer
32	Public member 2	-Identity of writer
33	Public member 3	-Identity of writer

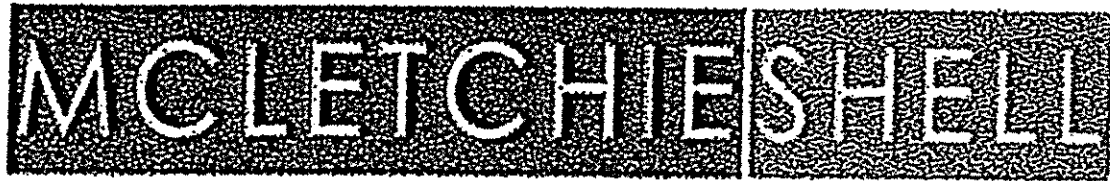
March 21, 2017

EXHIBIT J

Alina

From: maggie
Sent: Wednesday, February 15, 2017 1:08 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; Carlos L. McDade
Subject: RE: RJ v CCSD - Draft ORDER

Adam -- Moving on to the response due Friday- please let me know when you are available to discuss. Since you are out the rest of today, could we please set a time for tomorrow?



ATTORNEYS AT LAW
701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
www.nvlitigation.com

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From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Wednesday, February 15, 2017 12:43 PM.
To: maggie <maggie@nvlitigation.com>
Cc: pharan@nvlitigation.com; Carlos L. McDade <clmcdade@interact.ccsd.net>
Subject: Re: RJ v CCSD - Draft ORDER

Hey Maggie,

I am sure it is no surprise to you, but I disagree. Your proposed order is still greatly over reaching and goes far beyond what is contained in the minutes. As such, attached please find CCSD's proposed order limited to the findings and order contained in the aforementioned minutes. If you are still in disagreement, we will need to submit the proposed orders to Dept. 16 and let Judge Williams decide.

As a heads up, I am out of the office after about 1:30 p.m. today so if you try to reach me after 1:30, I won't be able to respond until Thursday a.m.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam

I will speak with you tomorrow.

Regards,

Maggie

image001

Attorneys at Law

701 East Bridge Ave., Suite S20

Las Vegas, NV 89101

(702) 738-5300 (T) / (702) 425-8220 (F)

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From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Tuesday, February 14, 2017 4:48 PM
To: maggie <maggie@nvlitigation.com>
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; pharan@nvlitigation.com
Subject: Re: RJ v. CCSD - Draft ORDER

maggie <maggie@nvlitigation.com> writes:
Carlos and Adam,

Attached please find the RJ's proposed order. Please let me know if you have any comments or proposed edits. In light of the fact that CCSD will require an order before providing the documents without redactions (and my client's continued interest in getting documents), I would really appreciate it if you would get back to me at your earliest convenience so we can submit this to the Court without delay. As ever, I am happy to discuss this matter with you. I also look forward to working with you, Adam, on resolving any issues with regard to the most recent request.

Best Regards,

Maggie McLeitchie

image001

Attorneys at Law

701 East Bridge Ave., Suite 520

Las Vegas, NV 89101

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EXHIBIT L

VIA U.S. MAIL AND E-MAIL

February 21, 2017

Adam Honey, Assistant General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146
Email: ahoney@interact.ccsd.net

Dear Mr. Honey:

Just following up to memorialize our calls of today and Friday and to partially respond to your letter dated February 17, 2017 (responding in turn to the Review-Journal's February 10, 2017).

Order; Timely Compliance

You re-affirmed that you do not plan to begin un-redacting documents until a notice of entry is filed. Should the Court leave filing the order to you, please be sure to do so quickly. While you would not agree to a due date for compliance, you did indicate you would try to turn around the documents as soon as possible (same day or next day) when we receive an order. Thank you for your consideration and recognition of my client's desire to obtain unredacted documents as quickly as possible.

February 10, 2017 Request

I am in receipt of your February 17, 2017 response, as you know. We discussed the fact that you have simply provided "place-holder" objections so you do not waive any claims of confidentiality while you are waiting to receive and review documents. I will address those claims once I have more information (I hope to see at least some responsive document soon). You also noted that you would provide specifics regarding the documents you are withholding (or redacting) and why at a later date. Thank you. Again, as indicated in the February 10, 2017 request, please do not wait to provide documents while you are preparing a log.

Finally, you noted that you would try to comply with my request to provide documents on a rolling basis. On Friday, you indicated to me that you hoped to receive the documents today, but you had not received them (as of 4:15 pm or so). As you know, in addition to requiring timely assertion of claims of confidentiality, Nevada's Public Records Act also requires governmental entities to provide a date regarding when documents will actually be available. I look forward to that information from you once you receive responsive documents for review.


We also discussed the process for searching for and locating responsive documents. I asked what sources were being searched, and how searches were being conducted. You indicated that the search was being conducted by a completely separate department (IT) and that you were not

February 21, 2017

involved in that process. I asked you to ask the IT department for information regarding searches and suggested your participation could help ensure a timely production. I also offered to do a joint call with you and your IT department to narrow searches.

I continue to look forward to resolving the issues at hand with you as quickly as possible, and thank you for your continued attention to these matters. I understand that you aren't usually tasked with NPRA matters and I appreciate the efforts to resolve the matters we can.

Regards,



Margaret A. McLetchie

cc: file; Carlos McDade (via email only)

EXHIBIT M

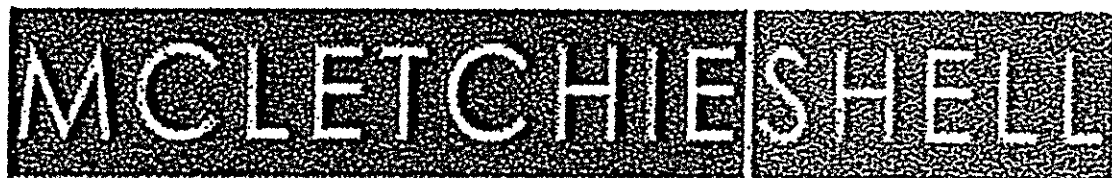
Alina

From: maggie
Sent: Monday, February 27, 2017 6:10 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; clmcddade@interact.ccsd.net
Subject: RE: RJ v CCSD

Adam,

Following up again on the documents currently under review. As it currently stands, we have a hearing 3/2 and I am hoping for an update in advance of the hearing (and, again, am here to help resolve any over-breadth issues and to make suggestions on narrowing searches if you are able to obtain that information.) Thanks in advance.

Maggie



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From: maggie
Sent: Friday, February 24, 2017 1:18 PM
To: 'Adam Honey' <ahoney@interact.ccsd.net>
Cc: pharan@nvlitigation.com; clmcddade@interact.ccsd.net
Subject: RJ v CCSD

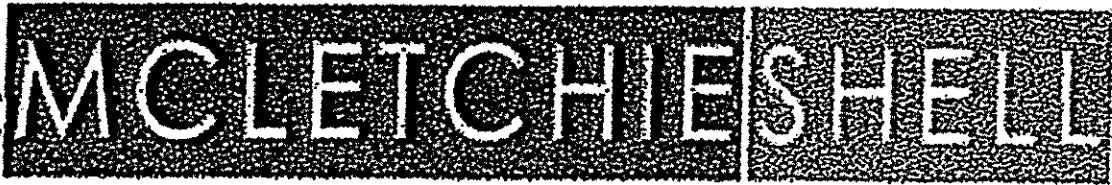
Adam,

Just left you a message. I was calling to let you know that we received the un-redacted documents. Thank you very much.

On the subsequent request for records, I had hoped to hear from you once you received responsive documents for review. Please let me know what the status is, and give me a call back when you get the chance.

Regards,

Maggie



ATTORNEYS AT LAW

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EXHIBIT N

pharan@nvlitigation.com

From: maggie
Sent: Wednesday, March 01, 2017 10:04 AM
To: clmcade@interact.ccsd.net
Cc: Alina; Adam Honey; sgerace@ccsd.net; pharan@nvlitigation.com
Subject: RJ v. CCSD

Carlos:

Because my messages and letters requesting information have been ignored, I just called and spoke to Adam about the RJ's 2/10 request. He and I had previously spoken about providing documents as they were reviewed and available but I have not received any and he just indicated that this was now not possible. He also indicated that CCCSD "hoped" to have records available by 3/3 – could you please provide a date certain? Also, while CCSD previously asserted some "placeholder" objections, to the extent that CCSD does in fact withhold documents, the RJ will need more specific information. However, from speaking with Adam, it does not sound like a log or document with similar information will be provided. He indicated that you might be the appropriate person to discuss these matters with since he is not the decision-maker. Would you please get back to me at your earliest convenience about these matters? The RJ is in the process of amending its petition but I am hoping we can resolve as many matters as possible in advance of tomorrow.

Thank you for your consideration.

Maggie



ATTORNEYS AT LAW
701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
www.nvlitigation.com

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EXHIBIT O

pharan@nvlitigation.com

From: maggie
Sent: Thursday, March 02, 2017 8:17 AM
To: Susan Gerace
Cc: Carlos L. McDade; Adam Honey; pharan@nvlitigation.com
Subject: RE: RJ v. CCSD

Ms. Gerace:

I understand that Mr. McDade is busy. However, when I was able to reach Mr. Honey yesterday (I believe I had tried to call Friday and had sent emails/a letter asking for information), he indicated Mr. McDade was the appropriate person to answer the questions I needed resolved before today's hearing. Unfortunately, neither Mr. McDade nor Mr. Honey provided the information requested and I have accordingly amended the petition on file.

I am happy to direct communication to Mr. Honey but would like to be able to have correspondence and questions answered so we can simplify this matter.

Regards,

Maggie



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From: Susan Gerace [mailto:sgerace@interact.ccsd.net]
Sent: Thursday, March 02, 2017 7:59 AM
To: maggie <maggie@nvlitigation.com>

Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Adam Honey <ahoney@interact.ccsd.net>
Subject: Re: RJ v. CCSD

Ms. McLetchie:

Mr. McDade has asked me to inform you that Mr. Honey is lead counsel in this matter, and that you should direct your correspondence to him.

Thank you.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

maggie <maggie@nvlitigation.com> on Wednesday, March 01, 2017 at 10:04 AM -0800 wrote:
Carlos:

Because my messages and letters requesting information have been ignored, I just called and spoke to Adam about the RJ's 2/10 request. He and I had previously spoken about providing documents as they were reviewed and available but I have not received any and he just indicated that this was now not possible. He also indicated that CCCSD "hoped" to have records available by 3/3 -- could you please provide a date certain? Also, while CCSD previously asserted some "placeholder" objections, to the extent that CCSD does in fact withhold documents, the RJ will need more specific information. However, from speaking with Adam, it does not sound like a log or document with similar information will be provided. He indicated that you might be the appropriate person to discuss these matters with since he is not the decision-maker. Would you please get back to me at your earliest convenience about these matters? The RJ is in the process of amending its petition but I am hoping we can resolve as many matters as possible in advance of tomorrow.

Thank you for your consideration.

Maggie



Attorneys at Law
701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
(702) 728-5300 (T) / (702) 425-8220 (F)
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EXHIBIT P

pharan@nvlitigation.com

From: maggie
Sent: Thursday, March 02, 2017 10:19 AM
To: Adam Honey
Cc: Carlos L. McDade; pharan@nvlitigation.com
Subject: RJ v CCSD

Adam and Carlos,

So that we can effectively resolve as many issues before the hearing set for 3/14 at 9 a.m., I would like to propose the following:

1. Please let me know as soon as possible if you will not produce documents tomorrow.
2. Please let me know by Monday whether and when you will provide:
 - a. The log (or some similar mechanism to identify anything withheld / redacted without disclosing confidentiality or privilege but explaining basis for withholding/ redaction); and
 - b. Search information (terms, sources searched).
3. That will provide us a week to "meet and confer" about any issues and to try to resolve them before 3/14 as Judge Williams instructed. I am happy to set a time to meet sometime next week that is convenient for both of you. I would respectfully suggest that either Adam, needs authority to make commitments or we need participation from Carlos so we can actually resolve issues.

We should also discuss the timing of my planned application for fees (counting from the Order, it's due 3/16), and whether informal resolution may be possible. If further work is needed in this case (briefing, etc.), we should discuss whether the application should be submitted after 3/16 or if you will consider it untimely based on your mootness theory.

Let me know what your thoughts are on the above, and if you have any other suggestions.

Thank you in advance for your cooperation in resolving this matter.

Maggie



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Las Vegas, NV 89101

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message in error, please immediately delete it and all copies of it from your system, destroy any hard copies of it and notify the sender by return e-mail.

EXHIBIT Q

pharan@nvlitigation.com

From: Susan Gerace <sgerace@interact.ccsd.net>
Sent: Friday, March 03, 2017 4:25 PM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Adam Honey
Subject: Re: RJ v. CCSD
Attachments: Ltr to McLetchie re Redacted Documents (3-3-17).pdf; LVRJ PRR - Redacted Documents 3-3-17.pdf

Dear Ms. McLetchie:

On behalf of Carlos McDade and Adam Honey, attached for your review and information is correspondence of today's date.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

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Pat Skorkowsky, Superintendent

March 3, 2017

Via U.S. Mail and E-mail

Maggie McLetchie, Esq.
McLetchie Shell
Attorneys at Law
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101

Re: LVRJ Public Records Request Dated February 10, 2017

Dear Ms. McLetchie:

Consistent with our initial response on February 17, 2017 to your records request of February 10, 2017, attached are documents responsive to your request. If CCSD is able to locate any additional documents it will provide a supplementary response.

CCSD has redacted very little information from the attached documents. CCSD has only redacted: the names of individuals who reported a complaint or concern about Kevin Child (and when the title of the individual or name of the school would easily lead to the identity of the individual who reported a complaint or concern, that information has also been redacted); information that would lead to the identification of student names; and personal phone numbers.

CCSD hereby asserts the following privileges and claims of confidentiality. CCSD reserves the right to assert additional privileges or claims of confidentiality, if necessary, at a later date.

Pursuant to NRS 239.010, public records must be available to inspection unless there is a statutory exception or "unless otherwise declared by law to be confidential."

CCSD has redacted information that would reveal personally identifiable student information that is confidential under the Family Educational Rights and Privacy Act (FERPA). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; NRS 392.029.

Information that is personal in nature such as a personal cell phone number has been redacted because that information is not a public record. See NRS 239.010; NAC 239.051; NAC 239.101; NRS 239B.030(2); NRS 239B.040(1); NRS 603.070; NRS 603A.210; Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990).

The public records law does not require the release of confidential employee personnel information. See NRS 239.010; NRS 386.350; NAC 284.718; NAC 284.726; CCSD Regulation 1212; CCSD Regulation 4311; CCSD Regulation 4110; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

CCSD-COM 025

RA252

Ltr to Ms. McLetchie

Page 2

March 3, 2017

Furthermore, the Supreme Court of Nevada has recognized that “any limitation on the general disclosure requirements of NRS 239.010 must be based upon a balancing or ‘weighing’ of the interests of non-disclosure against the general policy in favor of open government.” DR Partners v. Board of County Comm’rs, 116 Nev. 616, 622 (2000) citing Donrey, 106 Nev. at 635-36. A government entity cannot meet its burden by “voicing non-particularized hypothetical concerns.” DR Partners, 116 Nev. at 628.

Here, CCSD’s interest in protecting employees from a hostile work environment, intimidation, and retaliation clearly outweighs the public’s interest in knowing the specific identities of the persons who complained or expressed concern about the conduct of Trustee Kevin Child. Revealing the names would be detrimental to the work environment and well-being of employees and create a chilling effect on future reporting. The fears of hostile work environment, intimidation, and retaliation are not hypothetical or speculative. The fears are stated expressly by employees and members of the public in the redacted communications. One employee states: “Again, we are hesitant to report these issues because we don’t want to alienate our Trustee.” Another employee requests: “Could you please keep this statement completely anonymous?” Yet another employee expresses concerns with an environment that is not “supportive.” Another document reveals similar concerns of intimidation by a member of the public.

The purpose of the public record law is to foster democratic principles. CCSD believes the public’s interest in access to the documents is to examine the functions of a public agency (which can be done with the documents that are provided), and not in knowing the specific identity of public employees who voiced concern over the actions of the Trustee.

Finally, to the extent documents are received or gathered by CCSD in the course of investigating an alleged unlawful discriminatory practice those documents are confidential. See CCSD Regulation 4110(X); see also DR Partners v. Board of County Commissioners of Clark County, 116 Nev. 616, 621 (2000) (deliberative process privilege); Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990).

The United States Equal Employment Opportunity Commission (“EEOC”) has stated that employers are obligated to investigate and address instances of harassment, including sexual harassment. The EEOC also states that employees who are subjected to harassment frequently do not complain to management due to fear of retaliation. See U.S., Equal Employment Opportunity Commission, EEOC Notice No. 915.002, Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, at § V(D)(1) re Failure to Complain (dated 6/18/99, in effect until rescinded or superseded); see also Faragher v. City of Boca Raton, 118 S. Ct. 2275 (1998).

Ltr to Ms. McLetchie
Page 3
March 3, 2017

Regarding confidentiality of an investigation, EEOC states that “[a]n employer should make clear to employees that it will protect the confidentiality of harassment allegations to the extent possible. An employer cannot guarantee complete confidentiality, since it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, information about the allegation of harassment should be shared only with those who need to know about it. Records relating to harassment complaints should be kept confidential on the same basis.” See EEOC Notice No. 915.002, at § V(C)(1) re Confidentiality.

“To assure employees that such a fear is unwarranted, the employer must clearly communicate and enforce a policy that no employee will be retaliated against for complaining of harassment.” See EEOC Notice No. 915.002, at § V(D)(1) re Failure to Complain.

As Trustee Child is a corporate officer and not subject to internal employer corrective action, the only manner in which the District may act to protect against potential retaliation is to withhold the identity of the employees. Therefore, the records of the investigation should be kept confidential under EEOC guidance.

The District and public have an interest in a strong system to address complaints of harassment that encourages reporting without fear of retaliation. A balancing of the interests weighs in favor of confidentiality and non-disclosure. See NRS 239.010; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

Sincerely,



Carlos L. McDade
General Counsel

EXHIBIT R

From: maggie
Sent: Friday, March 03, 2017 5:11 PM
To: Carlos L. McDade; Adam Honey
Cc: Susan Gerace; pharan@nvlitigation.com
Subject: RE: RJ v. CCSD

Carlos and Adam,

Thank you very much for providing responsive documents today.

I do see that the letter describes the bases for redactions and identifies additional privileges. Thank you. However, it remains unclear to me what additional documents (for example, how many) are being withheld and why. I have previously requested a log identifying withheld documents and the basis for withholding each document. Please let me know whether you will do so. I believe that case law supports my request.

The Nevada Supreme Court has made clear that when a government agency either redacts, or refuses to provide public records subject to a request made under the NPRA, it must provide an explanation to the requesting party as to why the records have been withheld or redacted, including "citation to legal authority that justifies nondisclosure." *Reno Newspapers, Inc. v. Gibbons*, 266 P.3d 623, 625 (Nev. 2011). The explanation provided must cite to specific legal authority, and be detailed enough to allow the requesting party to evaluate the claim of confidentiality and argue the issue without being reduced to "a nebulous position where it is powerless to contest a claim of confidentiality." *Id.*, at 629. "[M]erely pinning a string of citations to a boilerplate declaration of confidentiality [does not support the governmental entity's] prelitigation obligation under Nev. Rev. Stat. § 239.0107(1)(d)(2) to cite to 'specific' authority 'that makes the public book or record, or a part thereof, confidential.'" *Id.* at 631. The Court explained that "it is anomalous' and inequitable to deny the requesting party basic information about the withheld records, thereby relegating it to advocating from a nebulous position where it is powerless to contest a claim of confidentiality." *Id.*

Although the Nevada Supreme Court declined to require government agencies to produce a Vaughn Index whenever withholding public records prior to litigation, again, the Court made clear that a government agency seeking to withhold records must nonetheless provide the requesting party with at least enough information to allow a meaningful opportunity to contest the claim of confidentiality. Because your letter does not explain whether and what documents are withheld, it does not satisfy the requirements. Moreover, here we are in litigation and more information is thus necessary.

In addition to a log, I am again asking for search information. Please get back to me one way or the other on both the log and the searches.

Finally, you mention that you will provide additional documents if you are able to locate them. Thank you very much. Are additional searches/ review still underway? Please let me know.

As ever, I am happy to discuss these matters. The Court has instructed us to resolve as many issues as we can, and I would like to do so.

Thanks again, and have a great weekend.

Maggie



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From: Susan Gerace [mailto:sgerace@interact.ccsd.net]
Sent: Friday, March 03, 2017 4:25 PM
To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Adam Honey <ahoney@interact.ccsd.net>
Subject: Re: RJ v. CCSD

Dear Ms. McLetchie:

On behalf of Carlos McDade and Adam Honey, attached for your review and information is correspondence of today's date.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

EXHIBIT S

pharan@nvlitigation.com

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Friday, March 10, 2017 9:21 AM
To: maggie
Cc: Carlos L. McDade; Susan Gerace; pharan@nvlitigation.com
Subject: Re: RJ v. CCSD

Good morning Maggie,

I just received the email below on Friday morning. I will check to see where we are on the time frame.

Adam

maggie <maggie@nvlitigation.com> writes:

Adam, Thanks for the email on this and for the call yesterday. We will send you a draft stipulation on the fees shortly. I hope we can resolve everything – if that is the case, my application is due within twenty days of next Tuesday. That also gives us some time to try to settle matters pertaining to the fees application as well. Just to confirm on the other matters, it is my understanding that you are endeavoring to provide me with both search term information as well as a log for the withheld records by tomorrow – and by Monday morning by the latest. Please confirm that timeframe.

Thanks, and I hope you feel better.

Regards,
Maggie



Attorneys at Law

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Las Vegas, NV 89101

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From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Wednesday, March 08, 2017 2:54 PM
To: maggie <maggie@nvlitigation.com>
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Susan Gerace <sgerace@interact.ccsd.net>; pharan@nvlitigation.com
Subject: Re: RJ v. CCSD

Maggie,

We will stipulate to allow for a single application for attorney fees.

Adam

maggie <maggie@nvlitigation.com> writes:
Carlos and Adam,

Thank you very much for providing responsive documents today.

I do see that the letter describes the bases for redactions and identifies additional privileges. Thank you. However, it remains unclear to me what additional documents (for example, how many) are being withheld and why. I have previously requested a log identifying withheld documents and the basis for withholding each document. Please let me know whether you will do so. I believe that case law supports my request.

The Nevada Supreme Court has made clear that when a government agency either redacts, or refuses to provide public records subject to a request made under the NPRA, it must provide an explanation to the requesting party as to why the records have been withheld or redacted, including "citation to legal authority that justifies nondisclosure." *Reno Newspapers, Inc. v. Gibbons*, 266 P.3d 623, 625 (Nev. 2011). The explanation provided must cite to specific legal authority, and be detailed enough to allow the requesting party to evaluate the claim of confidentiality and argue the issue without being reduced to "a nebulous position where it is powerless to contest a claim of confidentiality." *Id.*, at 629. "[M]erely pinning a string of citations to a boilerplate declaration of confidentiality [does not support the governmental entity's] prelitigation obligation under Nev. Rev. Stat. § 239.0107(1)(d)(2) to cite to 'specific' authority 'that makes the public book or record, or a part thereof, confidential.'" *Id.* at 631. The Court explained that "it is anomalous' and inequitable to deny the requesting party basic information about the withheld records, thereby relegating it to advocating from a nebulous position where it is powerless to contest a claim of confidentiality." *Id.*

Although the Nevada Supreme Court declined to require government agencies to produce a Vaughn Index whenever withholding public records prior to litigation, again, the Court made clear that a government agency seeking to withhold records must nonetheless provide the requesting party with at least enough information to allow a meaningful opportunity to contest the claim of confidentiality. Because your letter does not explain whether and what documents are withheld, it does not satisfy the requirements. Moreover, here we are in litigation and more information is thus necessary.

In addition to a log, I am again asking for search information. Please get back to me one way or the other on both the log and the searches.

Finally, you mention that you will provide additional documents if you are able to locate them. Thank you very much. Are additional searches/ review still underway? Please let me know.

As ever, I am happy to discuss these matters. The Court has instructed us to resolve as many issues as we can, and I would like to do so.

Thanks again, and have a great weekend.

Maggie



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From: Susan Gerace [<mailto:sgerace@interact.ccsd.net>]

Sent: Friday, March 03, 2017 4:25 PM

To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com

Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Adam Honey <ahoney@interact.ccsd.net>

Subject: Re: RJ v. CCSD

Dear Ms. McLetchie:

On behalf of Carlos McDade and Adam Honey, attached for your review and information is correspondence of today's date.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

EXHIBIT T

pharan@nvlitigation.com

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Friday, March 10, 2017 3:57 PM
To: maggie; pharan@nvlitigation.com
Subject: LVRJ v CCSD

Maggie,

I tried telephoning and left a message around 2 pm today. I was calling to let you know we will not have our correspondence ready today. I can't even ensure it will be ready Monday. I would be all for continuing the status check to the 21st with us providing you a response to your email by Thursday the 16th so that you have time to digest the contents prior to a status check.

Adam Honey

EXHIBIT U

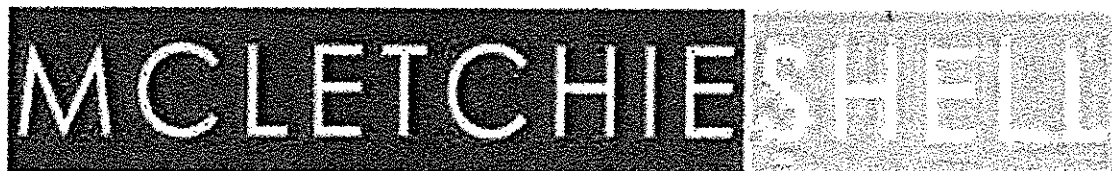
pharan@nvlitigation.com

From: maggie
Sent: Monday, March 13, 2017 10:29 AM
To: Adam Honey
Cc: pharan@nvlitigation.com
Subject: RE: LVRJ v CCSD

Hi, Adam –

I worked a half-day Friday; sorry I missed your call. I think we should go ahead with the status check tomorrow and set a briefing schedule, with the hopes we can resolve the issues before having to proceed with any further briefing. But the Court already pushed this out later than my client and I hoped and we think we need a schedule in place. I am also not sure what you mean regarding “correspondence” and a “response” – per our call and my follow-up email last week it is my understanding that you agreed to provide search term information and a log. Please let me know if we aren’t on the same page.

Maggie



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From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Friday, March 10, 2017 3:57 PM
To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com
Subject: LVRJ v CCSD

Maggie,

I tried telephoning and left a message around 2 pm today. I was calling to let you know we will not have our correspondence ready today. I can't even ensure it will be ready Monday. I would be all for continuing the status check to the 21st with us providing you a response to your email by Thursday the 16th so that you have time to digest the contents prior to a status check.

Adam Honey

EXHIBIT V

pharan@nvlitigation.com

From: Susan Gerace <sgerace@interact.ccsd.net>
Sent: Monday, March 13, 2017 4:09 PM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Adam Honey
Subject: LVRJ v. CCSD
Attachments: 03.13.17 Letter to McLetchie.pdf

Dear Ms. McLetchie:

On behalf of Carlos McDade and Adam Honey, please see attached correspondence regarding the above referenced matter.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

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Erin E. Cranor, Member
Chris Garvey, Member

Pat Skorkowsky, Superintendent

March 13, 2017

Via U.S. Mail and E-mail

Maggie McLetchie, Esq.
McLetchie Shell
Attorneys at Law
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101

Re: LVRJ Public Records Requests re Trustee Kevin Child

Dear Ms. McLetchie:

This letter responds to your recent email correspondence dated March 3, 2017.

A. Documents Already Provided

With regard to the public records request from the Las Vegas Review Journal dated December 5, 2016 (supplemented on December 9), CCSD has provided responsive documents. On February 3, 2017 the District provided you with initial documents Bates labeled 001 to 036. On February 8, 2017, the District provided you with more documents Bates labeled 001 to 023 (which were later revised to include less redactions on February 10 and again on February 13). The District also produced additional documents Bates labeled 024 to 033 and a privilege log on February 13. Finally, pursuant to the Court's Order, on February 24, 2017 the District provided you with revised redacted documents Bates labeled 001 to 033 (and a revised page 1 on February 27).

With regard to the subsequent public records request from the Las Vegas Review Journal dated February 10, 2017, CCSD provided 27 pages of responsive documents on March 3, 2017. Along with the documents, the District provided a letter that set forth privileges and claims of confidentiality.

B. Search Information

In your March 3 letter, you have requested that CCSD provide you with "search information." This is not required by the Nevada public records law. However, as a good faith attempt to help resolve this dispute, and without waiving the right to object to any subsequent requests for information regarding CCSD's search process, CCSD has searched for the terms "Kevin Child" and "Trustee Child" in the following Interact email boxes: Superintendent Patrick Skorkowsky; Dr. Mike Barton (Chief Academic Officer); each of the School Associate Superintendents; and each of the school principals in Trustee Kevin Child's District (which is "District D"). Given that the District employs over 40,000 employees and does not have a global search engine/ability, the District searched each of the above-identified employee's email accounts individually. The District believes that the extensive individual searches already performed are

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the most likely location for responsive documents and that it has complied with the Nevada public records law in this respect.

C. Remaining Information

You have also asked CCSD to disclose what additional documents are being withheld and why. To the best of our knowledge, the only information remaining that has not been provided is internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination, harassment, or hostile work environment which is confidential and not required to be disclosed under the public records law.

CCSD hereby asserts the following privileges and claims of confidentiality with regard to that remaining information. CCSD reserves the right to assert additional privileges or claims of confidentiality, if necessary, at a later date.

Pursuant to NRS 239.010, public records must be available to inspection unless there is a statutory exception or “unless otherwise declared by law to be confidential.”

1. Discrimination and Harassment Under Federal Law

Internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination or harassment is confidential and not required to be disclosed under the public records law. Federal statutes concerning discrimination and harassment as well as the regulations and case law interpreting those statutes provide ample authority for this proposition.

(a) Legal Standard for Discrimination and Harassment

It is an unlawful employment practice for an employer to discriminate against an individual with regard to the terms and conditions of that employment on the basis of the employee's race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a)(1). In Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986), the Supreme Court held that sexual harassment constitutes sex discrimination in violation of Title VII. Courts have recognized different forms of sexual harassment. In “quid pro quo” cases, employers condition employment benefits on sexual favors. In “hostile work environment” cases, employees work in offensive or abusive environments. Ellison v. Brady, 924 F.2d 872, 875 (9th Cir. 1991).

The standard for employer liability for hostile work environment harassment depends typically on whether or not the harasser is the victim's supervisor. An employer is vicariously liable for a hostile work environment created by a supervisor. In Vance v. Ball State University, 133 S. Ct. 2434 (2013), the Supreme Court rejected in part the EEOC's definition of “supervisor.” The Court held that an employee is a “supervisor” if the employer has empowered that employee “to take tangible employment actions against the victim, *i.e.*, to effect a ‘significant change in employment status, such as hiring, firing,

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failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.” The Court stated that an employer is liable for hostile work environment harassment by employees who are not supervisors if the employer was “negligent in failing to prevent harassment from taking place.” In assessing such negligence, the Court explained, “the nature and degree of authority wielded by the harasser is an important factor to be considered in determining whether the employer was negligent.” Also relevant is “[e]vidence that an employer did not monitor the workplace, failed to respond to complaints, failed to provide a system for registering complaints, or effectively discouraged complaints from being filed.”

“[A] hostile environment exists when an employee can show (1) that he or she was subjected to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, (2) that this conduct was unwelcome, and (3) that the conduct was sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” Ellison, 924 F.2d at 875-76.

“[E]mployers are liable for failing to remedy or prevent a hostile or offensive work environment of which management-level employees knew, or in the exercise of reasonable care should have known.” Dawson v. Entek Int’l, 630 F.3d 928, 940 (9th Cir. 2011) (alteration in original) (quoting Ellison v. Brady, 924 F.2d 872, 881 (9th Cir. 1991)).

It is well-established that “notice of the sexually harassing conduct triggers an employer’s duty to take prompt corrective action that is reasonably calculated to end the harassment.” Swenson v. Potter, 271 F.3d 1184, 1192 (9th Cir. 2001) (internal quotation marks omitted). Once an employer is on notice of a sexual harassment complaint, it must conduct an investigation. Id. at 1193.

“Employers should impose sufficient penalties to assure a workplace free from sexual harassment. In essence, then . . . the reasonableness of an employer’s remedy will depend on its ability to stop harassment by the person who engaged in harassment.” Ellison, 924 F.2d at 882. Employers therefore have a duty to undertake a remedy that is likely to be effective. Fuller v. City of Oakland, 47 F.3d 1522, 1528-29 (9th Cir. 1995). “In evaluating the adequacy of the remedy, the court may also take into account the remedy’s ability to persuade potential harassers to refrain from unlawful conduct.” Ellison, 924 F.2d at 882.

(b) Liability for the Conduct of Non-Employees

The Ninth Circuit has also held that an employer may be held liable for sexual harassment on the part of a private individual, such as the casino patron, where the employer either ratifies or acquiesces in the harassment by not taking immediate and/or corrective actions when it knew or should have known of the conduct. Folkerson v. Circus Circus Enterprises, Inc., 107 F.3d 754, 756 (9th Cir. 1997); see also Trent v. Valley Electric Ass’n, Inc., 41 F.3d 524, 526 (9th Cir. 1994) (where employer hires outside trainer to train its employees, a function often carried out by company supervisors, and outside trainer harasses employees, company may be liable under Title VII); Powell v. Las Vegas Hilton Corp., 841 F. Supp. 1024, 1028 (D. Nev. 1992) (where employer egregiously mishandled employees repeated complaints about harassment from casino customers, employer either ratified or was complicitous in the harassment);

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29 C.F.R. § 1604.11(e) (employers may be liable for sexual harassment perpetrated by nonemployees "in the workplace, where the employer . . . knows or should have known of the conduct, and fails to take immediate and appropriate corrective action.").

(c) **Investigation Duties and Confidentiality**

United States Equal Employment Opportunity Commission ("EEOC") has stated that employers are obligated to investigate and address instances of harassment, including sexual harassment. The EEOC also states that employees who are subjected to harassment frequently do not complain to management due to fear of retaliation. See U.S., Equal Employment Opportunity Commission, EEOC Notice No. 915.002, Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, at § V(D)(1) re Failure to Complain (dated 6/18/99, in effect until rescinded or superseded); see also Faragher v. City of Boca Raton, 118 S. Ct. 2275 (1998).

Regarding confidentiality of an investigation, EEOC states that "[a]n employer should make clear to employees that it will protect the confidentiality of harassment allegations to the extent possible. An employer cannot guarantee complete confidentiality, since it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, information about the allegation of harassment should be shared only with those who need to know about it. Records relating to harassment complaints should be kept confidential on the same basis." See EEOC Notice No. 915.002, at § V(C)(1) re Confidentiality (emphasis added).

"To assure employees that such a fear is unwarranted, the employer must clearly communicate and enforce a policy that no employee will be retaliated against for complaining of harassment." See EEOC Notice No. 915.002, at § V(D)(1) re Failure to Complain.

In a case involving the Freedom of Information Act, the Ninth Circuit recognized that FOIA Exemption 6, 5 U.S.C.S. § 552(b)(6), permits the redaction of information that could be used to identify the authors of communications sent to a federal agency complaining about violations of law. Prudential Locations LLC v. United States Dep't of Housing and Urban Dev., 739 F.3d 424, 429-34 (9th Cir. 2013). The Ninth Circuit found that the authors had a cognizable personal privacy interest under Exemption 6 (and relevant factors included the agency's confidentiality policy). The court also found that the authors faced a significant risk of harassment, retaliation, stigma, or embarrassment if their identities were revealed; and there was no cognizable public policy interest that would have been served by revealing their identities, so revealing their identities would have constituted a clearly unwarranted invasion of personal privacy under Exemption 6. Id.; see also Cameranesi v. United States Dep't of Defense, 839 F.3d 751 (9th Cir. 2016) (the names of foreign students and instructors were exempt from disclosure under FOIA, 5 U.S.C.S. § 552(b)(6), because the disclosure of those names would constitute a clearly unwarranted invasion of personal privacy; the evidence demonstrated that disclosure of the identities of the foreign students and instructors could give rise to harassment, stigma, or violence as a result of their association with the United States, exactly the sort of risks that courts have recognized as nontrivial).

(d) **Application of Law to the Facts**

Here, as Trustee Child is a corporate officer and not subject to internal employer corrective action, the only manner in which the District may act to fulfill its obligation to protect its employees against potential retaliation is to withhold the identity of the employees and withhold the internal information received or gathered by the District in the course of its investigation of an alleged unlawful practice of discrimination or harassment. The District and public have an interest in a strong system to address complaints of discrimination and harassment that encourages reporting without fear of retaliation. Based upon the above federal law and EEOC guidance related to discrimination and harassment, and a balancing of the interests in this case, the investigatory information should remain confidential. See also NRS 239.010; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

2. **CCSD Policy and Regulation 4110**

CCSD Policy and Regulation 4110 sets forth the procedures and requirements related to CCSD employment discrimination, harassment, and sexual harassment of employees. These procedures are based upon the federal authorities described above.

Of particular note, CCSD Regulation 4110(X) states: "All information gathered by the District in the course of its investigation of an allegedly unlawful discriminatory practices will remain confidential except to the extent necessary to conduct an investigation, resolve the complaint, serve other significant needs, or comply with law."

The CCSD Board of Trustees are allowed to promulgate reasonable and necessary regulations in support of its mission. See NRS 386.350 ("Each board of trustees is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the public schools . . . are established and to promote the welfare of school children, including the establishment and operation of schools and classes deemed necessary and desirable.")

Therefore, the internal information received or gathered by the District in the course of investigating the alleged discriminatory conduct of Trustee Child should be confidential under CCSD Regulation 4110.

3. **Deliberative Process Privilege**

The information is also not required to be disclosed because it is protected under the deliberative process privileged. DR Partners v. Board of County Commissioners of Clark County, 116 Nev. 616, 621 (2000).

The Nevada Supreme Court has recognized an "executive privilege" in Nevada in determining whether public records are "confidential by law." "The deliberative process or 'executive' privilege is one of the traditional mechanisms that provide protection to the deliberative and decision-making processes of the executive branch of government. . . ." DR Partners, 116 Nev. at 622. This privilege "shields from mandatory disclosure 'inter-agency or intra-agency memorandums or letters which would not be available

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by law to a party other than an agency in litigation with the agency[.]” *Id.* citing *Paisley v. C.I.A.*, 712 F.2d 686, 697 (D.C. Cir. 1983). It also permits “agency decision-makers to engage in that frank exchange of opinions and recommendations necessary to the formulation of policy without being inhibited by fear of later public disclosure,” 712 F.2d at 698, and, thus, protects materials or records that reflect a government official’s deliberative or decision-making process.” *Id.* at 623 citing *EPA v. Mink*, 410 U.S. 73, 89 (1973). “To qualify for non-disclosure under this privilege, the requested documents must be both predecisional and deliberative.” *DR Partners*, 116 Nev. at 623 citing *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151-54 (1975) and *Vaughn v. Rosen*, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975).

Here, the internal information obtained in the investigation of alleged discrimination or harassment was used as part of the deliberative and decision-making process of District executives. It was both predecisional and deliberative in that it was used to help determine what, if any, actions would be taken with regard to Trustee Child. The information was used as part of the basis for the December 5, 2016 “Guidelines for Trustee Visit” memorandum. As such, the public records law should not require disclosure of that information.

4. Nonrecord Materials

NAC 239.051 provides that certain materials of a local government entity are “nonrecord materials.” Those materials are not public records and are not required to be disclosed. Nonrecord materials “means published materials printed by a governmental printer, worksheets, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a local governmental entity.” NAC 239.051 (emphasis added).

A similar definition is applied to state agencies under NAC 239.705. The phrase official state record and record “does not include nonrecord materials. Nonrecord materials include, without limitation, published materials printed by a governmental printer, informal notes, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a state agency.” NAC 239.705(2) (emphasis added).

To the extent that any remaining information constitutes worksheets, drafts, informal notes, or ad hoc reports, it falls within the definition of “nonrecord materials” it is not required to be produced. These NAC provisions are found in Chapter 239 which pertains to public records, and should be applied in this case.

5. Employee Personnel Information

The public records law does not require the release of confidential employee personnel information. See NRS 239.010; NRS 386.350; NAC 284.718; NAC 284.726; CCSD Regulation 1212; CCSD Regulation 4311; CCSD Regulation 4110; *Donrey of Nevada v. Bradshaw*, 106 Nev. 630 (1990).

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Of particular note, NAC 284.718 and NAC 284.726 explicitly protects the employment personnel files of state agencies. Local government entities are entitled to the same level of protection.

6. **Personally Identifiable Student Information**

To the extent that the documents contain personally identifiable student information it is confidential under the Family Educational Rights and Privacy Act (FERPA). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; NRS 392.029.

7. **Personal Information**

Any personal information in the remaining documents is also not a public record. See NRS 239.010; NAC 239.051; NAC 239.101; NRS 239B.030(2); NRS 239B.040(1); NRS 603.070; NRS 603A.210; Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990).

8. **Donrey Balancing Test**

Finally, the Supreme Court of Nevada has recognized that “any limitation on the general disclosure requirements of NRS 239.010 must be based upon a balancing or ‘weighing’ of the interests of non-disclosure against the general policy in favor of open government.” DR Partners v. Board of County Comm’rs, 116 Nev. 616, 622 (2000) citing Donrey, 106 Nev. at 635-36. A government entity cannot meet its burden by “voicing non-particularized hypothetical concerns.” DR Partners, 116 Nev. at 628.

Here, CCSD’s interest in investigating employees’ reports of , and protecting them from, a hostile work environment, intimidation, and retaliation clearly outweighs the public’s interest in obtaining access to internal investigatory information regarding the alleged conduct of Trustee Kevin Child. Revealing the internal investigatory information would be detrimental to the work environment and well-being of employees and create a chilling effect on future reporting. The fears of hostile work environment, intimidation, and retaliation are not hypothetical or speculative. The fears are stated expressly by some employees.

The purpose of the public record law is to foster democratic principles. CCSD believes the public’s interest in access to documents is to examine the functions of a public agency, and while this is an important interest, it may be accomplished with the documents that have already been provided. The public’s interest in reading internal investigation files is outweighed under Donrey by the District’s need to meet its statutory duty to have a confidential system for internal investigation of alleged employment issues, enabling it to discover and correct problems in the workplace, while protecting employees who report allegations of unwelcome conduct.

Sincerely,



Carlos L. McDade
General Counsel

EXHIBIT W

pharan@nvlitigation.com

From: Adam Honey <ahoney@interact.ccsd.net>
Sent: Monday, March 13, 2017 4:48 PM
To: maggie
Cc: Susan Gerace; pharan@nvlitigation.com; Carlos L. McDade
Subject: Re: LVRJ v. CCSD

Maggie,

It is a single document. An investigative report concerning allegations of harassment and discrimination by Trustee Child prepared by Cedric Cole of the Diversity and Affirmative Action Programs. It consists of 15 pages, which includes an 8 page report and 7 pages of notes.

Adam

maggie <maggie@nvlitigation.com> writes:

Thank you for detailing the privileges you are claiming, Adam and Carlos. Is a log listing the documents withheld forthcoming?

image001

Attorneys at Law

701 East Bridger Ave., Suite 520

Las Vegas, NV 89101

(702)728-5300 (T) / (702)425-8220 (F)

www.nvlitigation.com

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From: Susan Gerace [<mailto:sgerace@interact.ccsd.net>]
Sent: Monday, March 13, 2017 4:09 PM
To: maggie <maggie@nvlitigation.com>; pharan@nvlitigation.com
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; Adam Honey <ahoney@interact.ccsd.net>
Subject: LVRJ v. CCSD

Dear Ms. McLetchie:

On behalf of Carlos McDade and Adam Honey, please see attached correspondence regarding the above referenced matter.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

EXHIBIT X

SHEN

VIA U.S. MAIL AND E-MAIL

March 21, 2017

Carlos McDade, General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146
Email: clmcdade@interact.ccsd.net

Re: *Las Vegas Review-Journal v. Clark County School District*: Case No. A-17-750151-W

Dear Carlos:

Thank you for your March 13, 2017 letter finally providing information about search terms and the custodians/databases searched, (albeit grudgingly so). I am writing in the hopes of resolving continued issues with CCSD's lack of compliance with Nevada's Public Records Act (the "NPRA"). As set forth below, the Review-Journal contends that additional searches should be conducted and that a complete version of the October 19, 2017 Report prepared by Cedric Cole (the "October Report") must be produced, and that all responsive documents should be produced, with redactions consistent with the Court's prior order as needed,

Additional Searches Must Be Conducted.

As a preliminary matter, Mr. Honey has asserted that there is some sort of privilege regarding the information requested, and your letter asserts that providing the Review-Journal with information about what you searched for and how you conducted that search falls outside the ambit of the NPRA. Neither assertion is true. Indeed, the fact that CCSD unilaterally limited responses to requests received to certain email accounts is a violation of the NPRA.

While CCSD should take steps to better organize its electronic data to more easily allow for meaningful access to public records by the public, it is understandable that CCSD may want to limit searches to certain document types or certain custodians. However, it should not do so unilaterally or in secret—which is exactly what occurred here. CCSD failed to provide a meaningful response to the Review-Journal's December 5, 2016 NPRA request (supplemented on December 9, 2016)¹ until the Review-Journal filed suit. CCSD certainly never contacted the reporter to discuss matters such as narrowing the request. CCSD likewise failed to contact me about the subsequent February 10, 2017 request ("February Request").² Then, as noted above, as

¹ The December 5 request and December 9 supplement are referred to herein as the "December Requests."

² Notably, the February Request was sent in part because the responses to the December Requests appeared to be missing responsive documents that should have been provided.

part of a continued pattern of failing to cooperate with the Review-Journal, CCSD refused to provide search information regarding either the December request or the February 10, 2017 request until March 13, 2017.

As noted above, what your March 13, 2017 letter reveals is that CCSD, without discussion or disclosure, limited its searches and search terms. Neither the December Requests nor the February request was limited to emails but all that CCSD searched was Interact email boxes.³ In addition, CCSD limited its searches to certain custodians: Superintendent Patrick Skorkowsky; Dr. Mike Barton (Chief Academic Officer); each of the School Associate Superintendents; and each of the school principals in Trustee Kevin Child's District (which is "District D").

While the Review-Journal is extremely frustrated by CCSD's continued recalcitrance with regard to responding to NPRA requests, it nonetheless wishes to resolve these matters if possible. To that end, the Review-Journal proposes that CCSD expand its searches.⁴

First, using the search terms you used previously ("Kevin Child" and "Trustee Child") the Interact email searches should include the following additional custodians:

- All principals (not just those in District D);
- All trustees (including but not limited to Kevin Child);
- Cedric Cole and all other Diversity and Affirmative Action Programs staff; and
- The email addresses for every person who has sent or received responsive documents (including as cc) that have already been produced in response to the December Requests or the February Requests.

These email addresses should be searched for documents pertaining to the topics set forth in my February 10, 2017 letter ("February 10, 2017 Topics"):

- Records that pertain to, discuss, or reference any inappropriate sexual comments Mr. Child is alleged to have made to female CCSD employees or any inappropriate sexual behavior Mr. Child is alleged to have engaged in; records that pertain to, discuss, or reference any complaints (formal and informal) submitted by female CCSD employees about Mr. Child's behavior; records that pertain to, discuss, or reference Concerns about female employees' concerns about being alone with Mr. Child;
- Records that pertain to, discuss, or reference concerns about Mr. Child having (or wanted to have) romantic relationships with female CCSD employees; records that pertain to,

³ For example, the February Request specifically instructed CCSD to define "Record" broadly and to include hard copy records as well as Electronically Stored Information ("ESI"). Further, while the Review-Journal offered to work with CCSD "on ways to locate records and narrow searches if necessary," CCSD failed to accept this invitation and just unilaterally narrowed the responses.

⁴ I asked Mr. Honey by email yesterday to consider the general approach of searching for additional custodians. This letter now sets forth specific proposed data sources/ custodians to search.

- discuss, or reference concerns that Mr. Child's behavior and/or statements have created a hostile work environment;
- Records that pertain to, discuss, or reference the factual bases for CCSD's determination that Mr. Child has violated Title VII of the Civil Rights Act of 1964;
 - Records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD employees regarding their appearance; records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD employees regarding sexual orientation;
 - Records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD students and/or employees regarding suicide;
 - Records that pertain to, discuss, or reference concerns about inappropriate comments regarding inappropriate comments made by Mr. Child about race, ethnicity, or national origin; records that pertain to, discuss, or reference concerns that Mr. Child engaged in inappropriate behavior at the Magnet Schools of America Conference that took place in Miami, Florida in May of 2016;
 - Records that pertain to, discuss, or reference concerns about Mr. Child's behavior at events conducted at CCSD schools as part of CCSD's Professionals and Youth Building A Commitment (PAYBAC) Program; and
 - Records that pertain to, discuss, or reference concerns about Mr. Child's behavior at KidsVentions events; records that pertain to, discuss, or reference concerns about Mr. Child's behavior while visiting any CCSD school during any instructional day; and records that pertain to, discuss, or reference concerns about Mr. Child's behavior at the CCSD administrative building.

In addition to the Interact email accounts set forth above or already searched, private emails and cell phone text messages pertaining the February Topics should be produced for the following custodians:

- All trustees (including but not limited to Kevin Child); and
- Pat Skorkowsky

Finally, the following hard copy records should be produced if they pertain to the February Topics:

- The Diversity and Affirmative Action Programs hard copy file on Kevin Child, any hard copy file CCSD maintains regarding Trustee Child.

This search should result in the production of any and all documents pertaining to the investigation of Kevin Child, and the documents pertaining to the October Report and the October Report itself (a complete copy with notes).⁵

///

⁵ As discussed below, CCSD's claim that this report is not subject to the NPRA does not pass muster.

Again, while time is of the essence, the Review-Journal remains willing to discuss narrowing or sequencing searches. Further, the Review-Journal of course does not object to responsive documents being produced in redacted form, consistent with the Court's February 23, 2017 Order.

The October Report Should Be Produced In Its Entirety.

The public interest in accessing information about allegations—and findings—of wrongdoing by Trustee Child outweighs any assertion of confidentiality, subject to the limitations set forth in the Court's February 23, 2017 Order. That order sufficiently addresses the policy arguments raised in your letter with regard to investigations of sexual harassment.

While the Nevada Supreme Court has not addressed this specific issue, other courts have found that records pertaining to school districts' investigations and findings of sexual harassment are public records. *See, e.g., Marken v. Santa Monica-Malibu Unified Sch. Dist.*, 202 Cal. App. 4th 1250, 136 Cal. Rptr. 3d 395 (2012) (finding that release of an investigation report and disciplinary record of a sexually harassing teacher was warranted under California's public records act due to the public's right to know, even where an explicit privacy statute was also implicated); *Deseret News Pub. Co. v. Salt Lake County*, 182 P.3d 372, 27 IER Cases 1099 (Utah 2008) (holding that a sexual harassment investigation report should be produced because the report "provides a window . . . into the conduct of public officials."). Thus, the argument that the report and related documents must be kept secret fails. CCSD's own regulations do not trump the NPRA.

As for the claim that the deliberative process privilege applies, that privilege protects high-level decision-making—not the information considered, as your letter argues. *See e.g. D.R. Partners v. Board of County Com'rs of Clark County*, 116 Nev. 616, 623 (Nev. 2000) (holding that documents excluded under the deliberative process privilege must be "predecisional and deliberative.>").

There is no valid argument that the formal October Report and its component parts are "informal notes" or other materials that you assert constitute "nonrecords." Similarly, the records sought are not personnel records. Finally, your argument that because some documents have been produced, additional documents need not be produced is a misapplication of *Donrey* and without merit.

Thus, the October Report—and any similar documents yielded by additional searches—must be produced, subject only to the types of redactions this Court has previously permitted.

Please get back to me as to whether you will change your position on the October Report and whether CCSD will search for additional custodians.

///

///

///

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL
DISTRICT

Appellant,

vs.

THE LAS VEGAS REVIEW-
JOURNAL,

Respondent.

Electronically Filed
Jan 25 2018 09:47 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO.: 73525

RESPONDENT'S APPENDIX – VOLUME I

Appeal from Eighth Judicial District Court, Clark County

The Honorable Timothy C. Williams, District Judge

District Court Case No. A-17-750151-W

Margaret A. McLetchie, Nevada Bar No. 10931

Alina M. Shell, Nevada Bar No. 11711

MCLECHIE SHELL LLC

701 East Bridger Ave., Suite 520

Las Vegas, Nevada 89101

Counsel for The Las Vegas Review-Journal

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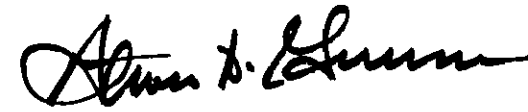
<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES</u>
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing RESPONDENT'S APPENDIX – VOLUME I was filed electronically with the Nevada Supreme Court on the 24th day of January, 2018. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
*Counsel for Appellant,
Clark County School District*

/s/ Pharan Burchfield
Employee of McLetchie Shell LLC



CLERK OF THE COURT

PET

MARGARET A. MCLEITCHIE, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

MCLEITCHIE SHELL LLC

701 East Bridger Avenue, Suite. 520

Las Vegas, NV 89101

Telephone: (702)-728-5300

Email: maggie@nvlitigation.com

Counsel for Petitioner

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No.: A-17-750151-W

Dept. No.: XVI

**PUBLIC RECORDS ACT
APPLICATION PURSUANT TO
NRS § 239.001/ PETITION FOR
WRIT OF MANDAMUS**

**EXPEDITED MATTER
PURSUANT TO NEV. REV.
STAT. § 239.011**

COMES NOW Petitioner the Las Vegas Review-Journal (the "Review-Journal"), by and through its undersigned counsel, and hereby brings this Nevada Public Records Act Application and Petition for Writ of Mandamus for declaratory and injunctive relief, ordering the Clark County School District to provide Petitioner access to public records. Petitioner also requests an award for all fees and costs associated with its efforts to obtain withheld public records as provided for by Nev. Rev. Stat. § 239.011(2). The Review-Journal also respectfully asks that this matter be expedited pursuant to Nev. Rev. Stat. § 239.011(2).

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Petitioner hereby alleges as follows:

NATURE OF ACTION

1. Petitioner brings this application for relief pursuant to Nev. Rev. Stat. § 239.011. *See also Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 884, 266 P.3d 623, 630, n.4 (2011).
2. The Review Journal’s application and petition to this court is the proper means to secure Respondent Clark County School District’s compliance with the Nevada Public Records Act (“NPRA”). *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 884, 266 P.3d 623, 630 n.4 (2011); *see also DR Partners v. Bd. Of Cty. Comm’rs of Clark Cty.*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000) (citing *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990)) (a writ of mandamus is the appropriate procedural remedy to compel compliance with the NPRA).
3. **Petitioner is entitled to an expedited hearing on this matter pursuant to Nev. Rev. Stat. § 239.011(2), which mandates that “the court shall give this matter priority over other civil matters to which priority is not given by other statutes.”**

PARTIES

4. Petitioner, the Review-Journal, a daily newspaper, is the largest newspaper in Nevada. It is based at 1111 W. Bonanza Road, Las Vegas, Nevada 89125.
5. Respondent Clark County School District (“CCSD”) is a political subdivision of the State of Nevada that is authorized to operate the public school system in Clark County, Nevada.
6. CCSD is subject to the Nevada State Public Records Act pursuant to Nev. Rev. Stat. § 239.005(b).

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to Nev. Rev. Stat. § 239.011, as the court of Clark County is where all relevant public records sought are held.
8. Further, this Court has jurisdiction to issue writs of mandamus pursuant to Article 6, Section 6 of the Nevada Constitution and Nevada Revised Statutes § 34.160.

9. Venue is proper in the Eighth Judicial District Court of Nevada pursuant to Nev. Rev. Stat. § 239.011. All parties and all relevant actions to this matter were and are in Clark County, Nevada.

STANDING

10. Petitioner has standing to pursue this expedited action pursuant to Nev. Rev. Stat. § 239.010 because the public records it has requested from CCSD have been unjustifiably withheld and CCSD has failed to meaningfully respond to its request, which is not permitted by law.

FACTS

11. Almost two months ago, on or around December 5, 2016, Review-Journal reporter Amelia Pak-Harvey (the “Reporter”) sent CCSD a request on behalf of the Review-Journal and pursuant to the Nevada Public Records Act, Nev. Rev. Stat. § 239.001 *et seq.* (the “NPRA”). The request sought certain documents pertaining to CCSD Trustee Kevin Child (the “Request”). A true and correct copy of the Request is attached as Exhibit 1. (Exhibit (“Exh.”) 1.)

12. The Request asked CCSD to produce:

- All incident reports filed by CCSD staff, CCSD police or any other CCSD officials that involve grief counselors and Trustee Kevin Child;
- All emails from CCSD staff, CCSD police or CCSD officials regarding school visits conducted by Kevin Child; and
- All emails and correspondence relating to the guidelines issued to CCSD staff on December 5, 2016 regarding Trustee Kevin Child’s visits to schools and interaction with staff.

(*Id.*)

13. On behalf of CCSD’s Office of Community and Government Relations, Cynthia Smith-Johnson confirmed receipt on December 9, 2016. (Exh. 2.)

14. As detailed below, despite repeated promises to respond and provide information and despite numerous efforts by the Review-Journal to get information about

1 the status and to resolve any possible concerns, to date CCSD has entirely failed to comply
2 with the NPRA.

3 15. The Reporter supplemented the Request on December 9, 2016
4 (“Supplemental Request”). (Exh. 3.) The Supplemental Request asked CCSD to produce
5 “any written complaints the Clark County School District has received regarding Trustee
6 Kevin Child.”

7 16. On December 13, 2015, Ms. Smith-Johnson responded to the Reporter’s
8 December 9, 2016 email, indicating that CCSD was “unable to provide the information
9 within 5 days” but that “[w]e anticipate a further response by close of business day on
10 December 16, 2016, if not before.” (Exh. 4.)

11 17. The Reporter wrote to Ms. Smith-Johnson on December 15, 2016 to check
12 on the status of her Request and Supplemental Request (the “Requests”). (Exh. 5.)

13 18. Despite having promised to do so, CCSD failed to respond on or before
14 December 16, 2016.

15 19. Not having received documents or any other information, on December 19,
16 2016, the Reporter again inquired about the status and requested “an updated timeline of
17 when I might receive these records.” (Exh. 6.)

18 20. Ms. Smith-Johnson responded to the Reporter’s December 19, 2016 email
19 the same day, stating she “expect[ed] to get back to you [with] something” within a few
20 days, by Wednesday, December 21, 2016, at the latest.” (Exh. 7.)

21 21. The Reporter followed up again on December 20, 2016 to check on the
22 status of the Requests and let Ms. Smith-Johnson know she could call “if there are any
23 obstacles.” (Exh. 8.)

24 22. The Reporter emailed again on Wednesday, December 21, 2016, the date
25 CCSD had promised to provide information. (Exh. 9.)

26 23. Ms. Smith-Johnson responded to the December 21, 2016 email, apologized
27 for the delay, and promised to get back to the Reporter the next day. (Exh. 10.)
28

24. Ms. Smith-Johnson did get back to the Reporter on December 22, 2016, but failed to provide records or any meaningful information. (Exh. 11.) Without any explanation, Ms. Smith-Johnson stated that “[a]dditional time is needed regarding the information requested[,]” but promised the Reporter that she would follow up “on January 9, 2017, if not before.” (*Id.*)

25. On January 4 2017, the Reporter followed up again and again provided her phone number. (Exh. 12.)

26. Ms. Smith-Johnson responded on January 9, 2017. (Exh. 13.) However, again no documents or meaningful information was provided. (*Id.*) Instead, without explanation for the continued delays, Ms. Smith-Johnson said “I anticipate a further response on January 13, 2017.” (*Id.*)

27. The Reporter responded to Ms. Smith-Johnson’s email on the same day, noting that it had been over a month since the Requests were made, expressing confusion, and asking for a call if there were any issues with regard to the Requests. (Exh. 14.)

28. CCSD did not respond to the Reporter’s concerns or offer to address any issues. Instead, despite having extended its deadline numerous times, failed to meet its promised deadline of January 13, 2017.

29. On January 16, 2017, the Reporter again requested information from CCSD regarding the status of the Requests. (Exh. 15.)

30. On January 20, 2017, counsel for the Review-Journal wrote to Carlos McDade, CCSD’s General Counsel, to express concerns regarding this protracted and delayed history, and CCSD’s violations of the NPRA. In the January 20, 2017 letter, the Review-Journal asked for immediate compliance due to the stale nature of the Requests and because CCSD had failed to provide information despite having repeatedly promised do so.

31. On January 24, 2017, counsel for the Review-Journal called the office of Mr. McDade to follow up about the Requests and left a message but has not received a return call.

32. To date, CCSD continues to effectively ignore the Requests; indeed, CCSD

1 has never provided a meaningful response. Instead, in an apparent effort to frustrate access
2 to records and the purpose of the NPRA, CCSD promised on numerous occasions to
3 “respond further” and “provide information” only to delay—and delay and delay. Further,
4 CCSD has never given a single reason as to why it cannot not provide the records sought by
5 the Requests (the “Requested Records”) in a timely fashion.

6 33. CCSD has not claimed that any privilege applies to the Requested Records
7 or that the Requested Records are confidential in any way, notice of which was required
8 within five (5) days. This is so despite the fact that the Reporter repeatedly invited CCSD
9 to contact her with any concerns, as detailed above. (*See also* Exh. 6, Exh. 8, Exh. 9, Exh.
10 12, and Exh. 14.)

11 34. CCSD has not provided the Requested Records.

12 35. CCSD has failed to comply with both the spirit and the letter of the NPRA.

13 **LEGAL AUTHORITY**

14 36. The NPRA reflects that records of governmental entities belong to the
15 public in Nevada. Nev. Rev. Stat. § 239.010(1) mandates that, unless a record is
16 confidential, “all public books and public records of a governmental entity must be open at
17 all times during office hours to inspection by any person, and may be fully copied...” The
18 NPRA reflects specific legislative findings and declarations that “[its purpose is to foster
19 democratic principles by providing members of the public with access to inspect and copy
20 public books and records to the extent permitted by law” and that it provisions “must be
21 construed liberally to carry out this important purpose.”

22 37. The NPRA provides that a governmental entity must provide timely and
23 specific notice if it is denying a request because the entity determines the documents sought
24 are confidential. Nev. Rev. Stat. § 239.0107(1)(d) states that, within five (5) business days
25 of receiving a request,

26 [i]f the governmental entity must deny the person’s request because the
27 public book or record, or a part thereof, is confidential, provide to the
28 person, in writing: (1) Notice of that fact; and (2) A citation to the specific

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WHEREFORE, the Petitioner prays for the following relief:

1. That the court handle this matter on an expedited basis as mandated by NRS 239.011;
2. Injunctive relief ordering CCSD to immediately make available complete copies of all records requested;
3. Reasonable costs and attorney's fees; and
4. Any further relief the Court deems appropriate.

DATED this the 26th day of January, 2017.

Respectfully submitted,

By: 
Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLEITCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
(702) 728-5300
maggie@nvlitigation.com
Counsel for Petitioners

EXHIBIT 1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Mon, Dec 5, 2016 at 6:10 PM
Subject: Records request
To: Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth <alejandrabooth@gmail.com>, Melinda Malone <mmalone@ccsd.net>

Hello,

I'd like to formally request the following:

--All incident reports filed by CCSD staff, CCSD police or any CCSD official that involve grief counselors and Trustee Kevin Child.

--All emails from CCSD staff, CCSD police or CCSD officials regarding school visits conducted by Kevin Child.

--All emails and correspondence relating to the guidelines issued to CCSD staff on December 5, 2016 regarding Kevin Child's visits to schools and interaction with staff.

Thanks for your time,
Amelia

--
Amelia Pak-Harvey
Education Reporter
Las Vegas Review Journal
o: 702-383-4630
c: 919-619-8258
@AmeliaPakHarvey

--
Amelia Pak-Harvey
Education Reporter
Las Vegas Review Journal
o: 702-383-4630
c: 919-619-8258

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: **Amelia Pak-Harvey** <apak-harvey@reviewjournal.com>
Date: Thu, Dec 8, 2016 at 1:53 PM
Subject: Re: Records request
To: Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth
<alejandrabooth@gmail.com>, Melinda Malone <mmalone@ccsd.net>, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>

Hello,
Just wanted to confirm receipt of this request and CC'd it to Cynthia Smith-Johnson as well.

On Mon, Dec 5, 2016 at 6:10 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:
Hello,

I'd like to formally request the following:

--All incident reports filed by CCSD staff, CCSD police or any CCSD official that involve grief counselors and Trustee Kevin Child.

--All emails from CCSD staff, CCSD police or CCSD officials regarding school visits conducted by Kevin Child.

--All emails and correspondence relating to the guidelines issued to CCSD staff on December 5, 2016 regarding Kevin Child's visits to schools and interaction with staff.

Thanks for your time,
Amelia

--
Amelia Pak-Harvey
Education Reporter
Las Vegas Review Journal
o: [702-383-4630](tel:702-383-4630)
c: [919-619-8258](tel:919-619-8258)
[@AmeliaPakHarvey](https://www.instagram.com/AmeliaPakHarvey)

EXHIBIT 2

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>
Date: Fri, Dec 9, 2016 at 7:15 AM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com
Cc: mbooth@interact.ccsd.net, alejandrabooth@gmail.com, mmalone@ccsd.net

Good morning,

Yes, your request has been received and is being processed.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:
Hello,
Just wanted to confirm receipt of this request and CC'd it to Cynthia Smith-Johnson as well.

On Mon, Dec 5, 2016 at 6:10 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

Hello,

I'd like to formally request the following:

--All incident reports filed by CCSD staff, CCSD police or any CCSD official that involve grief counselors and Trustee Kevin Child.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>
Date: Fri, Dec 9, 2016 at 7:17 AM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com

Ms. Pak-Harvey,

I have received your request and am processing it.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
702-799-5865
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:

Hello,

Just wanted to confirm receipt of this request and CC'd it to Cynthia Smith-Johnson as well.

On Mon, Dec 5, 2016 at 6:10 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

Hello,

I'd like to formally request the following:

--All incident reports filed by CCSD staff, CCSD police or any CCSD official that involve grief counselors and Trustee Kevin Child.

EXHIBIT 3

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Fri, Dec 9, 2016 at 2:41 PM
Subject: Re: Records request
To: Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth <alejandrabooth@gmail.com>, Melinda Malone <mmalone@ccsd.net>, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>

Hello,
Thanks for the response.
I'd like to add to this request: any written complaints the Clark County School District has received regarding Trustee Kevin Child.

Best,
Amelia

On Thu, Dec 8, 2016 at 1:53 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:
Hello,
Just wanted to confirm receipt of this request and CC'd it to Cynthia Smith-Johnson as well.

On Mon, Dec 5, 2016 at 6:10 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:
Hello,

I'd like to formally request the following:

--All incident reports filed by CCSD staff, CCSD police or any CCSD official that involve grief counselors and Trustee Kevin Child.

--All emails from CCSD staff, CCSD police or CCSD officials regarding school visits conducted by Kevin Child.

--All emails and correspondence relating to the guidelines issued to CCSD staff on December 5, 2016 regarding Kevin Child's visits to schools and interaction with staff.

Thanks for your time,
Amelia

--
Amelia Pak-Harvey

EXHIBIT 4

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>
Date: Tue, Dec 13, 2016 at 3:05 PM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com

Ms. Pak-Harvey,

Pursuant to NRS 239.0107, we are unable to provide the information to you within 5 business days. We anticipate a further response by close of business day on December 16, 2016, if not before.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:7027995865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:

Hello,

Thanks for the response.

I'd like to add to this request: any written complaints the Clark County School District has received regarding Trustee Kevin Child.

Best,
Amelia

On Thu, Dec 8, 2016 at 1:53 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

EXHIBIT 5

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Thu, Dec 15, 2016 at 3:27 PM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>

Hello Cynthia,

Thank you for reaching out with this update. I wanted to check in on the status and also wanted to see if this would include my recent addendum to this request, which is: "any written complaints the Clark County School District has received regarding Trustee Kevin Child."

Thanks for the time,
Amelia

On Tue, Dec 13, 2016 at 3:05 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

Pursuant to NRS 239.0107, we are unable to provide the information to you within 5 business days. We anticipate a further response by close of business day on December 16, 2016, if not before.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:

Hello,

Thanks for the response.

I'd like to add to this request: any written complaints the Clark County School District has received regarding Trustee Kevin Child.

EXHIBIT 6

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Mon, Dec 19, 2016 at 2:36 PM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>, Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth <alejandrabooth@gmail.com>

Hello Cynthia,
I'm just writing to check in on the status of this request and if possible an updated timeline of when I might receive these records.

Feel free to reach out at 702-383-4630 any time.

Thanks for the time,
Amelia

On Thu, Dec 15, 2016 at 3:27 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:
Hello Cynthia,
Thank you for reaching out with this update. I wanted to check in on the status and also wanted to see if this would include my recent addendum to this request, which is: "any written complaints the Clark County School District has received regarding Trustee Kevin Child."

Thanks for the time,
Amelia

On Tue, Dec 13, 2016 at 3:05 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

Pursuant to NRS 239.0107, we are unable to provide the information to you within 5 business days. We anticipate a further response by close of business day on December 16, 2016, if not before.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net

EXHIBIT 7

[REDACTED]

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[REDACTED]

From: **Cynthia Smith-Johnson** <csmith-johnson@interact.ccsd.net>
Date: Mon, Dec 19, 2016 at 4:09 PM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com

Ms. Pak-Harvey,

I expect to get back to you w/something tomorrow or Wednesday. I will get back to you either way.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:

Hello Cynthia,

I'm just writing to check in on the status of this request and if possible an updated timeline of when I might receive these records.

Feel free to reach out at [702-383-4630](tel:702-383-4630) any time.

Thanks for the time,
Amelia

On Thu, Dec 15, 2016 at 3:27 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

Hello Cynthia,

EXHIBIT 8

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: **Amelia Pak-Harvey** <apak-harvey@reviewjournal.com>
Date: Tue, Dec 20, 2016 at 3:59 PM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>

Hi Cynthia,
Thanks. Just checking in again. Feel free to call me if there are any obstacles.

Best,
Amelia

On Mon, Dec 19, 2016 at 4:09 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

I expect to get back to you w/something tomorrow or Wednesday. I will get back to you either way.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:
Hello Cynthia,
I'm just writing to check in on the status of this request and if possible an updated timeline of when I might receive these records.

Feel free to reach out at [702-383-4630](tel:702-383-4630) any time.

Thanks for the time,

EXHIBIT 9

[REDACTED]

[REDACTED]

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From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Wed, Dec 21, 2016 at 10:52 AM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>, Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth <alejandrabooth@gmail.com>

Hello,
This is Amelia with the Review-Journal just checking in again to see if it's possible to receive these records today.
As my deadline is today and we do plan to write something on the matter by today, whatever I receive will be reflected in tomorrow's story.

If I don't end up getting these today, I'll mention that we did put in a records request but it has not yet been answered.

Feel free to call me at 702-383-4630 with anything.

Thanks again for your time,
Amelia

On Tue, Dec 20, 2016 at 3:59 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:
Hi Cynthia,
Thanks. Just checking in again. Feel free to call me if there are any obstacles.

Best,
Amelia

On Mon, Dec 19, 2016 at 4:09 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

I expect to get back to you w/something tomorrow or Wednesday. I will get back to you either way.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations

EXHIBIT 10

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: **Cynthia Smith-Johnson** <csmith-johnson@interact.ccsd.net>
Date: Wed, Dec 21, 2016 at 3:06 PM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com

Ms. Pak-Harvey,

I apologize for the delay I will get back to you tomorrow.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:

Hello,

This is Amelia with the Review-Journal just checking in again to see if it's possible to receive these records today.

As my deadline is today and we do plan to write something on the matter by today, whatever I receive will be reflected in tomorrow's story.

If I don't end up getting these today, I'll mention that we did put in a records request but it has not yet been answered.

Feel free to call me at [702-383-4630](tel:702-383-4630) with anything.

Thanks again for your time,
Amelia

On Tue, Dec 20, 2016 at 3:59 PM, Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

EXHIBIT 11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>
Date: Thu, Dec 22, 2016 at 2:29 PM
Subject: Re: Records request
To: apak-harvey@reviewjournal.com

Ms. Pak-Harvey,

Additional time is needed regarding the information requested. I will follow up w/you after the Holidays on January 9, 2017, if not before.

Happy Holidays!

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
[702-799-5865](tel:702-799-5865)
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:
Hi Cynthia,
Thanks. Just checking in again. Feel free to call me if there are any obstacles.

Best,
Amelia

On Mon, Dec 19, 2016 at 4:09 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:

Ms. Pak-Harvey,

I expect to get back to you w/something tomorrow or Wednesday. I will get back to you either way.

Thank you.

EXHIBIT 12

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: **Amelia Pak-Harvey** <apak-harvey@reviewjournal.com>
Date: Wed, Jan 4, 2017 at 8:56 AM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>

Hello Cynthia,

I'm just checking in on this request. Feel free to give me a call at 702-383-4630 if needed.

Thanks for your time,
Amelia

On Thu, Dec 22, 2016 at 2:29 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

Additional time is needed regarding the information requested. I will follow up w/you after the Holidays on January 9, 2017, if not before.

Happy Holidays!

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
702-799-5865
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:
Hi Cynthia,
Thanks. Just checking in again. Feel free to call me if there are any obstacles.

Best,
Amelia

On Mon, Dec 19, 2016 at 4:09 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:

EXHIBIT 13

EXHIBIT 14

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>

Date: Mon, Jan 9, 2017 at 5:01 PM

Subject: Re: Records request

To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>, Michelle Booth - Communications <mbooth@interact.ccsd.net>, Michelle Booth <alejandrabooth@gmail.com>

Thank you Cindy.

At this point, over a month after my original request, I'm having trouble understanding the reasons for this delay. I believe we've followed all the proper protocols in requesting this information. If there are issues can you please give me a call at 702-383-4630?

Thanks and I will follow up shortly,
Amelia

On Mon, Jan 9, 2017 at 3:58 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:
Ms. Pak-Harvey,

I apologize for the delay. I anticipate a further response on January 13, 2017.

Thank you.

Cindy Smith-Johnson
Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
702-799-5865
00155503

Amelia Pak-Harvey <apak-harvey@reviewjournal.com> writes:
Hello Cynthia,

I'm just checking in on this request. Feel free to give me a call at 702-383-4630 if needed.

Thanks for your time,

EXHIBIT 15

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Amelia Pak-Harvey <apak-harvey@reviewjournal.com>
Date: Mon, Jan 16, 2017 at 5:41 PM
Subject: Re: Records request
To: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>, Michelle Booth
<alejandrabooth@gmail.com>, Michelle Booth - Communications <mbooth@interact.ccsd.net>

Hi Cindy and Michelle,
Just checking in on the status of this request.

Thanks for your time,
Amelia

On Mon, Jan 9, 2017 at 5:01 PM Amelia Pak-Harvey <apak-harvey@reviewjournal.com> wrote:

Thank you Cindy.

At this point, over a month after my original request, I'm having trouble understanding the reasons for this delay. I believe we've followed all the proper protocols in requesting this information. If there are issues can you please give me a call at 702-383-4630?

Thanks and I will follow up shortly,
Amelia

On Mon, Jan 9, 2017 at 3:58 PM, Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net> wrote:

1 CASE NO. ~~A750151~~ A-17-750151-W

2 DOCKET U

3 DEPT. ~~16~~ XVI

4

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6

DISTRICT COURT

7

CLARK COUNTY, NEVADA

8

* * * * *

9 LAS VEGAS REVIEW JOURNAL,)

10 Plaintiff,)

11 vs.)

12 CLARK COUNTY SCHOOL DISTRICT,)

13 Defendant.)

14 -----)

15

REPORTER'S TRANSCRIPT OF

16

HEARING: WRIT OF MANDATE

17

18 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

19

DISTRICT COURT JUDGE

20

21 DATED TUESDAY, FEBRUARY 14, 2017

22

23

24

25 REPORTED BY: PEGGY ISOM, RMR, NV CCR #541

RA041

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3

4 MCLEATCHIE SHELL LLC
5 BY: MARGARET MCLEATCHIE, ESQ.
6 701 E. BRIDGER AVE.
7 SUITE 520
8 LAS VEGAS, NV 89101
9 (702) 728-5300
10 (702) 425-8220 Fax
11 MAGGIE@NVLITIGATION.COM

8

9

10

11 FOR THE DEFENDANT:

12

13 OFFICE OF THE GENERAL COUNSEL
14 BY: ADAM D. HONEY, ESQ.
15 BY: CARLOS McDADE, ESQ.
16 5100 WEST SAHARA AVENUE
17 LAS VEGAS, NV 89146
18 (702) 799-5373
19 AHONEY@INTERACT.CCSD.NET

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1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 14, 2017

2 9:05 A.M.

3 P R O C E E D I N G S

4 * * * * *

09:05:50 5
6 THE COURT: Next up page 5. Las Vegas Review
7 Journal versus Clark County School District.

8 MS. MCLEITCHIE: Good morning. Maggie
9 McLetchie for the Las Vegas Review Journal.

09:05:56 10 MR. HONEY: Good morning, your Honor. Adam
11 Honey for the Clark County School District.

12 MR. McDADE: Good morning, your Honor. Carlos
13 McDade, Clark County School District.

14 THE COURT: All right. Good morning. Tell me
09:06:03 15 where are we on this matter?

16 MS. MCLEITCHIE: Your Honor, I'm pleased that
17 after months of recalcitrance and a failure to respond,
18 we have received documents. And Mr. Honey of Clark
19 County School District General Counsel's office is
09:06:15 20 working with us cooperatively now to resolve some of
21 the issues. I think, your Honor, today the main issue
22 we have before us is the scope of redactions and
23 whether or not the full search was conducted.

24 A full search, your Honor, I would suggest
09:06:33 25 that we deal with that issue in a subsequent hearing

09:06:37 1 because we have made a new request under the Public
2 Records Act request, at the Public Records Act, that I
3 think may reach additional documents and may address
4 some of the concerns I have about whether or not a full
09:06:50 5 production was made.

6 THE COURT: All right.

7 MS. MCLEATCHIE: But with regard to the
8 confidentiality, your Honor, would you like me to
9 address the redactions?

09:06:58 10 THE COURT: Yeah. Here's one of the things I
11 think is important to point out, and I don't think
12 that's really been addressed thoroughly. I mean, I
13 took a look at the statute. And we can correct me if
14 I'm wrong or not, but the information that's been
09:07:11 15 requested is not part of a personnel file, is that
16 correct?

17 MS. MCLEATCHIE: That is correct, your Honor.

18 THE COURT: I mean, that's the first thing I
19 asked myself. And as a result, would there be any
09:07:18 20 statutory privileges or federal privileges based upon
21 contents of a personnel file? Because the information
22 that was requested, it's my understanding, involves a
23 public official -- right? -- an elected official. With
24 that in mind, what privileges, if any, would apply?

09:07:35 25 MS. MCLEATCHIE: Your Honor, it's my view that

09:07:36 1 the Clark County School District has failed to meet
2 their burden of establishing any confidentiality.
3 First, we start with a presumption under the Public
4 Records Act that unless they're explicitly declared by
09:07:50 5 law to be confidential, they are subject to the Public
6 Records Act. We don't have a situation here where the
7 records are explicitly declared confidential by law.

8 And with regard to any other kind of
9 confidentiality, the school district has the burden of
09:08:04 10 showing by a preponderance of the evidence not only
11 that the confidentiality is applicable, but that the
12 confidentiality that they assert outweighs the interest
13 in public disclosure, which I would suggest in this
14 case, your Honor, is very high. The Review Journal
09:08:22 15 wants to report on these issues, and the public wants
16 to know about what Trustee Child has done, and parents
17 want to know at which schools Trustee Child engaged in
18 the behavior at issue.

19 Under the law, your Honor, Clark County School
09:08:35 20 District was required to assert any confidentiality
21 within five days. They have failed. They, obviously,
22 failed to meet that -- that requirement. But on a
23 recent log -- and, your Honor, I'm sure your chambers
24 is in receipt of the log --

09:08:53 25 THE COURT: We're --

09:08:53 1 MS. MCLEATCHIE: -- and the revised documents.
2 THE COURT: Yeah. We did receive that for the
3 record.
4 MS. MCLEATCHIE: So that log does assert some
09:08:59 5 confidentiality. But as your Honor suggests, they
6 cite -- they rely largely on a claim of personnel
7 privilege which I don't think is applicable here.
8 THE COURT: Because, I mean, Trustee Child,
9 he's not an employee of the Clark County School
09:09:13 10 District.
11 MS. MCLEATCHIE: That's correct, your Honor.
12 And while the Review Journal understands the need, for
13 example, that they suggest, while they don't articulate
14 why each document redacted meets the -- requires
09:09:28 15 confidentiality, and I don't think they've met their
16 burden even with the revised log, your Honor, I do
17 think that the Review Journal understands the need.
18 For example, if a staff person such as at issue in
19 Document No. 1 that they produced, if a staff person
09:09:42 20 appears to be a janitorial staff person, we, even
21 though they haven't met the burden, we recognize that
22 staff people, teachers that come forward saying
23 something like Trustee Child has sexually harassed me,
24 they should perhaps be protected.
09:09:57 25 But CCSD has not only redacted the names of

09:10:01 1 people in those circumstances, it's redacted
2 administrators, principals, supervisors addressing
3 those complaints, and it's even addressed -- it's even
4 redacted, your Honor, the names of schools, which I
09:10:13 5 don't see any basis whatsoever for redacting those
6 especially because, as I mentioned, parents want to
7 know if these things happened at their kid's schools.

8 THE COURT: I understand.

9 MS. MCLETCHIE: Thank you, your Honor.

09:10:25 10 MR. HONEY: Good morning, your Honor. Adam
11 Honey. I think we -- Ms. McLetchie has narrowed the
12 argument rather well. So we're down to redactions. We
13 haven't made a blanket confidentiality agreement by
14 withholding entire documents. We have produced the
09:10:42 15 documents that are responsive to the narrow request
16 made for records by the Review Journal.

17 Now, what we have done is we have redacted the
18 information that protects the identities of these
19 people. And the reason we've done that is that
09:10:57 20 California case law -- and I brought some with you.

21 THE COURT: But here's the thing: Why am I
22 talking about California case law? Because we have a
23 specific Nevada statute on point.

24 MR. HONEY: That is correct. But,
09:11:07 25 unfortunately, we don't have any California -- Nevada

09:11:10 1 case law directly on point.

2 THE COURT: But, I mean, this is Nevada.
3 We're not California.

4 MR. HONEY: Okay.

09:11:15 5 THE COURT: NRS 239.010, it's my understanding
6 controls specifically what public records must be
7 produced, right? We can all agree to that.

8 MR. HONEY: Correct.

9 THE COURT: And so I realize there's
09:11:32 10 essentially no Nevada case law, or very little.
11 There's some that deals specifically with this issue,
12 but the statute is pretty clear. It says the contents
13 of which are not otherwise declared by law to be
14 confidential.

09:11:48 15 So I just -- I want to know specifically what
16 Nevada statutes, what Nevada case law, or potentially
17 federal statutes that would render the information
18 confidential. For example, schools. The identity of
19 the schools, I don't think, would come under any sort
09:12:09 20 of confidentiality even if it was potentially in a
21 personnel file, right?

22 MR. HONEY: And the reason why we've redacted
23 the school names is to protect the identity of
24 individuals that are making these complaints. As you
09:12:21 25 pointed out, Trustee Child is not an employee of the

09:12:25 1 district.

2 THE COURT: He's not. So can't we all agree
3 one thing at the very outset this is not a personnel
4 file?

09:12:31 5 MS. MCLEATCHIE: Yes, your Honor.

6 THE COURT: So okay. We take that and put
7 that by the wayside. So I need to know -- I mean, it
8 really comes down to this: I understand -- it's my
9 recollection, and understand I've been in trial, but we
09:12:42 10 took a look at it. I don't think the identity of any
11 students was disclosed in the production, right?

12 MS. MCLEATCHIE: That is correct, your Honor.
13 And I don't think the privilege log -- I got it
14 yesterday. I was reviewing it, the documents, last
09:12:52 15 night. I don't think the privilege log reflects that
16 any names of any students --

17 THE COURT: Yeah.

18 MS. MCLEATCHIE: -- were involved. So the
19 question really is whether or not there's -- there's, I
09:13:02 20 think, one document in which, and it's No. 1, there's
21 one document which is staff person. And they didn't
22 identify it. They just said Adult 1. So I don't think
23 it's consistent with your Honor's previous order
24 setting this hearing.

09:13:17 25 In any case, it appears from Document No. 1

09:13:20 1 that it's somebody who works in janitorial services, a
2 custodian who complained about lewd and inappropriate
3 behavior by Trustee Child. And I understand in that
4 instance redacting the name of the person because you
09:13:33 5 wouldn't want people to feel like that would become
6 subject to the Public Records Act.

7 Your Honor, there is some case law on point.
8 For example, in Reno Newspapers V Gibbons they
9 interpreted the Public Records Act as amended that
09:13:47 10 provides even stronger presumptions in favor of
11 openness. And it makes clear that the governmental
12 entity asserting any kind of confidentiality has a
13 timely burden, and also bears the burden of proving by
14 a preponderance of the evidence that its interest in
09:14:03 15 nondisclosure clearly outweigh the public's interest in
16 access. And the state entity cannot meet this burden
17 with a non-particularized showing, or by expressing a
18 hypothetical concern. I think in every instance other
19 than with regard to the name of the person in Document
09:14:19 20 No. 1, I think in every instance on their log, the
21 concerns they're expressing are hypothetical.

22 Principals, for example, have a job to do, and
23 that includes addressing and forwarding complaints
24 about trustees. They're not going to be chilled. They
09:14:34 25 haven't submitted any affidavits from a principal

09:14:36 1 saying if my name is not redacted I'm concerned that
2 I'm going to be retaliated against by the board of
3 trustees. And they just haven't met their burden under
4 the law, either under statute or under Nevada Supreme
09:14:49 5 Court case law, your Honor.

6 THE COURT: I understand. But, I mean,
7 because at the end of the day whatever decision I make
8 has to be controlled by the statute.

9 MR. HONEY: NRS -- if -- may I, your Honor?

09:15:03 10 THE COURT: You got the floor, sir.

11 MR. HONEY: Thank you, your Honor.

12 NRS 386.350 provides the broad powers to the board of
13 trustees to enact regulations. And one of the
14 regulations they have enacted is that the documents of
09:15:16 15 the district or of the employees is confidential under
16 regulation 1212.

17 Now --

18 THE COURT: But --

19 MR. HONEY: -- the issue here --

09:15:25 20 THE COURT: -- here's my question for you.

21 I'm reading the statute. Again, the statute appears to
22 be fairly clear as to what its specific charge would
23 be. And the statute says right here:

24 Except as otherwise provided in (3), all
09:15:41 25 public books and public records of a

09:15:44 1 governmental entity, the contents of which are
2 not otherwise declared by law to be
3 confidential.

4 So the way I -- the way I read that,
09:15:55 5 notwithstanding regulations, because, I mean, they can
6 have regulations, but at the end of the day, I'm
7 looking at a specific state or federal law that says,
8 you know what, these specific items are confidential.

9 MR. HONEY: Now, I'm not aware of anything
09:16:16 10 that says that the production of the documents can't be
11 redacted for a different purpose. And I see case law
12 where things are redacted for other reasons. Because
13 we have -- our hands are virtually tied in regards to
14 the trustee because he's not our employee. And the
09:16:33 15 Review Journal itself has produced multiple articles,
16 at least two articles where they are talking about
17 employees being fearful of reporting this type of
18 information. They've also published an article about
19 this, the trustee --

09:16:48 20 THE COURT: But see, at the end -- I mean, I
21 understand all that. I do. But I'm asking you, and
22 it's a real specific question, because I'm not here to
23 rewrite the public records production act. I just need
24 to know that if you're going to assert a privilege of
09:17:08 25 confidentiality specifically what statute or what --

09:17:12 1 can be state or federal, or it can be case law -- that
2 I can rely upon to evaluate your position. And that's
3 really and truly what it comes down to. It's a pretty
4 straightforward analysis. Because understand this, it
09:17:30 5 doesn't appear to me that as a trial court I'm given
6 much discretion as it relates to this specific issue.

7 If the request is made and there's -- and it's
8 regarding public documents that the public agency has a
9 certain time period to respond, that pursuant to the
09:17:49 10 statute, they have to make a claim of why the documents
11 should be confidential. Doesn't really appear to
12 cover -- it does cover redactions, but nonetheless I
13 need law --

14 MR. HONEY: Okay.

09:18:04 15 THE COURT: -- to look at.

16 MR. HONEY: And, your Honor, I understand that
17 you're -- appear to be leaning one particular way here.

18 THE COURT: No. I'm not -- you know, I'm not
19 leaning any way. I mean, I'm just interpreting the
09:18:16 20 statute. And if the statute says, Look, this is what
21 you shall do, you follow the statute, right? Isn't
22 this -- it's really that simple.

23 MS. MCLEATCHIE: Your Honor, if I may --

24 THE COURT: No, no, no. He has the floor.

09:18:25 25 MS. MCLEATCHIE: Oh, I'm sorry, your Honor.

09:18:27 1 THE COURT: You'll get the rebuttal.

2 MS. MCLEITCHIE: I'm sorry, your Honor.

3 MR. HONEY: Okay. Your Honor, if I could put

4 forth my entire argument for the record, it would be

09:18:37 5 greatly appreciated.

6 THE COURT: Yeah. Yes, you can.

7 MR. HONEY: Thank you, your Honor. Okay. So

8 under 386.350 gives the board of trustees broad powers

9 to enact regulations. Okay. We have a regulation in

09:18:50 10 regards to confidentiality of employee information. We

11 think that the employees writing this information that

12 it can be deemed confidential under that regulation.

13 Now, you've asked for case law. Donrey

14 requires a balancing test between transparent

09:19:10 15 government and the interests that need to be known.

16 Now, I also have, and I understand it's not

17 controlling but persuasive at least, out of the

18 Appellate Court In California where in similar

19 situations what they say is, Okay, we want to balance

09:19:27 20 this secrecy in government against privacy rights. And

21 what they have found on numerous occasions is that when

22 the names of the individuals don't shed any further or

23 additional light on the issue at hand, there's no

24 reason in order -- there's no reason to bring these

09:19:47 25 third parties so to speak, bring their names out in

09:19:49 1 public.

2 And that's what we have here because the
3 documents as redacted as are provides all the
4 information about both Trustee Child's actions and
09:19:58 5 because the superintendent's name isn't redacted
6 anywhere, it shows what the district, particularly the
7 superintendent, how he responded in regards to these
8 allegations.

9 Now, as I was saying earlier, we've got the
09:20:11 10 article from the RJ saying on two occasions that people
11 are fearful of retaliation. Because one of the things
12 in the documents is Trustee Child will come to these
13 schools and, you know, announce that he's the big boss,
14 that he's your boss, he's in charge of you. And the
09:20:27 15 people's fearfulness of retaliation is real.

16 The petitioner in this case has published
17 articles saying that. They actually published one
18 again today saying the same thing. They also published
19 articles in regards to the executive director of the
09:20:40 20 Teachers Union saying that he was threatened violence
21 by Mr. Childs. That's in front of the Employee
22 Management Relations Board.

23 And what's going to happen here is,
24 unfortunately, there's going to be a chilling effect on
09:20:54 25 employees of all levels beneath the superintendent --

09:20:57 1 I'm sorry. Excuse me -- beneath the board of trustee's
2 level to be a chilling effect on these people to report
3 these things. And reporting these things is really
4 important because we don't have --

09:21:07 5 THE COURT: I have --

6 MR. HONEY: -- a safe harassment --

7 THE COURT: Wait, wait.

8 MR. HONEY: Go ahead.

9 THE COURT: I have a question for you. Why
09:21:12 10 didn't we prepare a memorandum of points and
11 authorities that specifically put forth or set forth
12 this analysis?

13 MR. HONEY: We had an extremely short time
14 frame to handle this is the best I can give you. I'd
09:21:26 15 be more than happy to offer one in the next 48 hours.
16 Or if a shorter time frame is directed by the Court, of
17 course, whatever you direct.

18 THE COURT: I understand. But continue on,
19 sir.

09:21:36 20 MR. HONEY: Excuse me?

21 THE COURT: Continue on.

22 MR. HONEY: Okay. Thank you.

23 And so if we have a chilling effect on
24 employees of all different levels, whether they be
09:21:45 25 principals, teachers, what have you, custodial staff,

09:21:51 1 support staff, if they can't report these actions that
2 are arguably inappropriate, then that perpetuates
3 potentially more actions like this.

4 We want our employees to come to us and tell
09:22:05 5 us what's going on in the schools so we can have a
6 safe, positive learning environment. And we're fearful
7 that by giving these names out, for really no purpose
8 in regard to these specific requests of records, all it
9 really does is creates a chilling effect. It doesn't
09:22:22 10 give any more information or shed any more light on the
11 actions of the trustee.

12 THE COURT: What about the schools?

13 MR. HONEY: The reason for the schools, your
14 Honor, is that we're talking about Trustee Child, the
09:22:35 15 trustee of the specific District D within the school
16 district.

17 And as soon as we identify a school, a school
18 is going to have one principal. A school may have
19 just -- depending on the size, if it's an elementary
09:22:47 20 school, it might have one part-time vice principal. If
21 it's a middle school, it might have a couple assistant
22 principals and a couple counselors. So the point is,
23 is the way we did it is, when I did the redactions for
24 Ms -- the re-redactions for Ms. McLetchie is I undid
09:23:02 25 pronouns. I tried to leave -- where if for example it

09:23:05 1 said Principal John Doe, I left principal in. I took
2 out John Doe. And then if it then said Bob Smith High
3 School, I took out Bob Smith and left High School so
4 they know what level. Because I do think it's
09:23:19 5 important that they know, I mean, what level of
6 students endured the alleged acts of Mr. Child. But we
7 feel that if we give them the school names, in addition
8 with Principal redacted name, that essentially we're
9 telling them the names of the people. And that's going
09:23:40 10 to have a chilling effect. We think that's important.

11 THE COURT: Is there a specific whistle-blower
12 statute I can look to that has any application to the
13 facts of this case?

14 MR. HONEY: Well, we have a regulation 4110 in
09:23:57 15 regards to harassment. If we were able -- if you gave
16 us time, if you wanted a memorandum, I could look into
17 the whistle-blower.

18 THE COURT: I mean, that's what you're
19 essentially arguing, right?

09:24:09 20 MR. HONEY: Now you point that out, yeah. It
21 does sound a lot like whistle-blower.

22 THE COURT: And I don't know if that has any
23 application to the facts of this case, but nonetheless.

24 Anything else, gentlemen?

09:24:24 25 MR. HONEY: Nothing further, your Honor.

09:24:26 1 THE COURT: All right. Ma'am.

2 MS. MCLEATCHIE: Your Honor, thank you. First
3 of all --

4 THE COURT: Tell me. There's another pending
09:24:37 5 request, is that correct?

6 MS. MCLEATCHIE: There is another pending
7 request asking for some additional documents. It
8 was -- because we're now in litigation, I sent it to --
9 the RJ gave it to me, and I sent it to Mr. Honey
09:24:50 10 directly rather than have contact with the represented
11 party. That was sent last Friday. It seeks broader
12 information. For example, one of the Review Journal's
13 requests originally was for all documents pertaining to
14 the guidelines that were issued that barred Mr. --

09:25:06 15 Trustee Child from campus. And we've only received, I
16 think, one -- one or two -- one or maybe two documents
17 concerning that, and we had expected that there would
18 be more.

19 And so there are a number of -- there are a
09:25:19 20 number of requests, additional requests that we want to
21 get at. In addition, the Review Journal originally
22 only asked for written complaints. And we certainly
23 want documents pertaining to those written complaints,
24 processing those written complaints.

09:25:35 25 The fact that we just yesterday got documents

09:25:38 1 that were never previously identified, originally I was
2 told that besides non-controversial documents, the
3 universe of approximately 23 that were on the first log
4 were the only responsive documents. We got another
09:25:52 5 small batch yesterday, which I appreciate, but I want
6 to work with Mr. Honey to address how they're doing the
7 searches, are they searching for documents
8 appropriately?

9 There are a number of issues concerning
09:26:03 10 Trustee Child. And I would expect given the nature of
11 and number of the complaints regarding Trustee Child
12 there are more documents that are out there, which I'd
13 like to address if necessary, if we're unable to
14 resolve it, at a later point with this Court.

09:26:20 15 The immediate issues are that the Review
16 Journal wants as full access to these documents as
17 possible. Earlier Mr. Honey suggested that the statute
18 allow for a different standard for redactions than for
19 completely withholding documents. And that's not the
09:26:38 20 case when they're -- whether they're redacting
21 documents or withholding documents in their entirety,
22 they still have to meet their burden.

23 And while CCSD counsel -- I understand
24 Mr. Honey is new to this case, while they're claiming
09:26:53 25 that they haven't had a lot of time, your Honor, I do

09:26:57 1 wish to remind the Court that we, the Review Journal,
2 first made a request on December 5, 2016. Before
3 initiating litigation, I contacted the general
4 counsel's office. They were trying to just push these
09:27:10 5 requests off, and they never responded meaningfully.

6 The Nevada Revised Statutes provide they are
7 supposed to identify any claimed basis of
8 confidentiality, your Honor, within five days. They
9 haven't done so. They can't rely on either this
09:27:28 10 Court's suggestion that maybe there's whistle-blower
11 protection or the Review Journal's reporting that some
12 people are afraid of retaliation in order to meet the
13 burden they were supposed to establish within five days
14 of the request.

09:27:43 15 THE COURT: So what are you saying, ma'am?

16 MS. MCLEITCHIE: I think they should have to
17 produced all the documents in their entirety other than
18 the names. And, again, the Review Journal doesn't
19 contest the idea that if someone such as the staff
09:27:55 20 person identified in the first document was a direct
21 victim of something like sexual harassment, we don't
22 contest that their name should not be protect -- should
23 be protected. However --

24 THE COURT: I want to make sure I
09:28:06 25 understand --

09:28:06 1 MS. MCLEATCHIE: Sure.

2 THE COURT: -- with a little particularity
3 what you are referring to when you discuss or identify
4 names.

09:28:13 5 MS. MCLEATCHIE: Sure.

6 THE COURT: What categories are you talking
7 about, ma'am?

8 MS. MCLEATCHIE: What categories am I talking
9 about, your Honor?

09:28:21 10 THE COURT: Yes.

11 MS. MCLEATCHIE: I think with regard -- I'm
12 talking about with document -- for example, on Document
13 No. 1, and I think this is the only one that really
14 meets the standard. In Document No. 1 on their log,
09:28:30 15 when you look at that document that appears to be a
16 member of the janitorial staff that was made to be --
17 made to be -- to feel incredibly uncomfortable by
18 behavior of Trustee Child. We don't need the name of
19 this person. We don't want to discourage people from
09:28:46 20 making sexual harassment complaints. We understand
21 that.

22 But if you turn to documents -- turn to other
23 documents, you realize that they're not talking about
24 direct victims of any kind of harassment. They are
09:29:01 25 talking about administrators that are receiving

09:29:03 1 complaints, administrators that are processing
2 complaints, and that that just doesn't meet the
3 standard that they're articulating. They're being very
4 conclusory in their reliance, for example, on Clark
09:29:16 5 County School District Regulation 1212 says:

6 ALL EMPLOYEES

7 Confidential information concerning all
8 personnel will be safeguarded.

9 The reliance on that statute, your Honor, is
09:29:28 10 completely circular because it requires them to show --
11 they can't say we're showing that this information is
12 confidential because there's a regulation that says if
13 information is confidential, it will be protected.
14 They just haven't met their burden, your Honor. And
09:29:40 15 when you look --

16 THE COURT: So, ma'am, I think, and you can
17 correct me if I'm wrong, but it seems like to me you're
18 arguing that any assertion of privilege has been
19 waived.

09:29:51 20 MS. MCLEITCHIE: Your Honor, I would assert
21 that they waived that privilege by not responding
22 timely within five days. I would also assert that
23 they, even as articulated now, and they've had -- they
24 have had ample chance because I've been trying to work
09:30:05 25 with them for weeks now so I could get my client the

09:30:08 1 document so they could do the reporting they want to do
2 that we think is in the public interest. But if you
3 look at documents such as Document No. 2, it says that
4 there was a principal that requested the trustee not
09:30:21 5 attend an event. And it says I'll email the principal
6 and send him your number. I don't think principals are
7 the type of people that I'm talking about.

8 Principals have a job to do including
9 addressing issues like misbehavior by a trustee,
09:30:35 10 forwarding complaints, processing any complaints about
11 the behavior. And Trustee Child's behavior ranges from
12 inappropriate comments to possible illegal sexual
13 harassment.

14 But a principal, for example, that is their
09:30:49 15 entire job. I don't think the argument can be made
16 that they would be afraid of retaliation or that they
17 fall somehow within a whistle-blower statute. And,
18 your Honor, they haven't -- they have the burden of not
19 just saying, well, we're concerned about people being
09:31:03 20 chilled and not coming forward. They have a burden
21 under Nevada Supreme Court case law of providing a
22 preponderance of the evidence to show why the interest
23 in nondisclosure outweighs the interest in disclosure.
24 And they just haven't done that.

09:31:19 25 They can't just reference a California case.

09:31:21 1 And they have to meet the Nevada standard which
2 requires that. By now, your Honor, they have had ample
3 time. I've been to their office. I've been on the
4 phone with them numerous times. I've tried to get
09:31:32 5 information from them. They failed to meet their
6 burden, and I think that your Honor should order them
7 to produce all the documents in unredacted form unless
8 we're talking about, as with Document No. 1, and I
9 think that is the only one in the entire log, somebody
09:31:46 10 who is a direct victim of sexual harassment.

11 THE COURT: Okay. Anything else?

12 MS. MCLEATCHIE: No, your Honor.

13 MR. HONEY: Your Honor, I would point out that
14 under NRS 239 we have five days to respond, but that
09:31:59 15 doesn't require five days to produce documents. And I
16 do believe -- I haven't -- I don't have it directly in
17 front of me. Maybe Maggie does.

18 MS. MCLEATCHIE: I do.

19 MR. HONEY: Did we respond within five days?

09:32:11 20 MS. MCLEATCHIE: You respond -- you answered.
21 You acknowledged the receipt of the request within five
22 days --

23 MR. HONEY: Okay.

24 MS. MCLEATCHIE: -- but I think we disagree
09:32:18 25 about how the statute should be interpreted. It says

09:32:22 1 that within five days, you can either respond and say:

2 1, You need more time to provide documents;

3 2, Another entity, not us, has legal

4 custody or control of the document; or

09:32:35 5 3, We believe these documents are protected

6 by a confidentiality.

7 That all is supposed to happen within five

8 days, your Honor. And that -- and that failed -- that

9 failed to happen.

09:32:48 10 MR. HONEY: Thank you, Maggie. I appreciate
11 it.

12 MS. MCLEATCHIE: And that is -- your Honor,

13 it's 239.

14 THE COURT: Is that --

09:32:53 15 MS. MCLEATCHIE: I'm sorry.

16 THE COURT: Is that uncontroverted?

17 MR. HONEY: Well, we disagree that what our

18 initial five-day response needs to be. We think --

19 THE COURT: Don't --

09:33:02 20 MR. HONEY: We think the statute says that we
21 need to respond, and we think we've responded

22 appropriately within these five days.

23 THE COURT: Aren't you supposed to assert the

24 basis for the privilege within five days?

09:33:14 25 MR. HONEY: I'm not certain what was asserted

09:33:15 1 in that letter. I don't have it in front of me, your
2 Honor. But what I would say is in regards to her
3 argument in regards to the Nevada standard and the
4 preponderance of the evidence, if the Court were to
09:33:26 5 review the documents that I think we provided both
6 redacted and unredacted -- you may have done so
7 already.

8 THE COURT: You're -- and I reviewed them.

9 MR. HONEY: Okay. Thank you -- is that the
09:33:35 10 preponderance of the evidence is the information we
11 gave them was meaningful to what their request was. I
12 keep finding myself going back to What did they ask
13 for. And we've given them what they asked for.
14 Nothing that was redacted of individual's names and the
09:33:52 15 schools that we think would link individuals to those
16 schools, again I want to reiterate, it takes away from
17 the information that they provided. Giving the names
18 of individuals involved that are fearful of retaliation
19 does not shed any more light on his actions, of the
09:34:08 20 alleged actions of the trustee.

21 I have nothing further, your Honor.

22 MS. MCLETCHE: Your Honor --

23 THE COURT: All right.

24 MS. MCLETCHE: -- if I may.

09:34:15 25 THE COURT: You get the last word. Then I'll

09:34:17 1 rule.

2 MS. MCLEATCHIE: Okay. Exhibit 2 to the
3 petition is the response from the Clark County School
4 District that was the one that was made timely. And
09:34:22 5 the public records request, The Office of Community and
6 Government Relations responded because the reporter had
7 said I want to make sure you got my request. The
8 office just said:

9 Good morning. Yes, your request has been
09:34:34 10 received, and it's being processed.

11 When you look at NRS 239.0107 it says that no
12 later than the end of the fifth business day after the
13 date on which the person who has legal custody or
14 control receives a notice from a public record request,
09:34:50 15 a governmental entity shall do one of the following as
16 applicable. And one of those things is you can provide
17 notice of confidentiality. That's NRS 239.0107(B.)

18 They did not do that within five days. When
19 you look at the structure of that statute, it makes
09:35:12 20 clear that within five days, you can do a number of
21 things. One of them is say we need more time to
22 produce documents. Another is to say we don't have the
23 documents. This other entity does. Another one of
24 them is to assert a confidentiality. And they didn't
09:35:25 25 do any of the things that are outlined in the statute.

09:35:28 1 They just said, We're looking at your request. And
2 that's not sufficient, your Honor.

3 THE COURT: All right. This is what I'm going
4 to do. I'm going to do a couple of things. Number
09:35:37 5 one, regarding the redactions I'm going to order -- and
6 it's because, I mean, if you take a look at
7 NRS 239.0107 and more specifically, I guess, that would
8 be (1)(d). Let me see here. Yeah. I think it's
9 (1)(d)(1) and (2) from what I can gather in just taking
09:36:07 10 a quick look at the statute, certain things must happen
11 within a specific time frame period. It appeared to me
12 they didn't happen in this case.

13 You just can't ignore the request for public
14 documents. I'm not saying that happened. It was
09:36:19 15 responded to, but it wasn't responded to in a
16 meaningful way.

17 And so as far as the redactions are concerned,
18 I'm going to -- because I don't think there's been an
19 adequate showing. And I would have liked to have
09:36:34 20 briefing. If you don't brief it, I mean, I just think
21 it's been going on for quite a while. I'm going to:

22 No. 1, the identity of the schools shall be
23 disclosed;

24 The identity of any administrators shall be
09:36:51 25 disclosed for now;

09:36:52 1 However, of course, students, no;
2 And anything alleging sexual harassment and
3 the like or anything like that, no.
4 You got that?

09:37:09 5 MS. MCLEATCHIE: Yes, your Honor.

6 THE COURT: So, I guess, basically -- and what
7 I want to do too is this -- there's another request.
8 When was that made?

9 MS. MCLEATCHIE: That was made last Friday,
09:37:22 10 your Honor. So the response would be due this Friday.

11 THE COURT: Okay. I think I want to set a
12 status check a week from Thursday as far as that
13 request is concerned and see where we're at. Let's
14 talk. Is there a need for a support staff like the
09:37:41 15 janitors' identity?

16 MS. MCLEATCHIE: Your Honor, no. On Item No. 1
17 that I think the person who was sexually harassed --

18 MR. HONEY: I'll represent to you it's not a
19 janitor.

09:37:52 20 MS. MCLEATCHIE: Oh, okay.

21 THE COURT: What about support staff like
22 janitors and things like that, ma'am?

23 MS. MCLEATCHIE: Your Honor, if the -- if a
24 janitor or a member of support staff was sexually
09:38:00 25 harassed, we do not need to know their names or

09:38:02 1 identities.

2 THE COURT: All right. Is there anything
3 else?

4 MR. HONEY: Your Honor.

09:38:05 5 THE COURT: Yes.

6 MR. HONEY: Do you want to clarify what you
7 mean or what your definition of administrator level is?

8 THE COURT: I would -- administrator level
9 would be principals -- right? -- assistant principals,

09:38:17 10 deans, those types of individuals, even teachers. I'm
11 only concerned about support staff. Typically, and
12 that's why I brought that up, they don't have as much
13 protection; right?

14 MS. MCLEATCHIE: Correct, your Honor.

09:38:31 15 THE COURT: Okay. Is there any -- I don't
16 remember much support staff being involved; is that
17 correct?

18 MS. MCLEATCHIE: I was apparently confused
19 because of the failure of the log to identify. There
09:38:40 20 was a staff person. I thought it was a janitorial
21 staff.

22 THE COURT: Exactly.

23 MS. MCLEATCHIE: I was unclear. So just to be
24 clear, any names of students or support staff will be

09:38:48 25 redacted and any direct victims alleging sexual

09:38:52 1 harassment?

2 THE COURT: Yes.

3 MS. MCLEATCHIE: And, your Honor, would you

4 like me to prepare a written order for your

09:38:57 5 consideration?

6 THE COURT: Please do. Prepare a written

7 order.

8 THE COURT CLERK: Counsel, the status check

9 will be March 2 at 9:00 a.m.

09:39:04 10 MR. HONEY: I'm sorry. What date was that?

11 THE COURT CLERK: The 2nd of March. 9:00 a.m.

12 MS. MCLEATCHIE: Thank you.

13 MR. HONEY: Hey, your Honor.

14 MS. MCLEATCHIE: Thank you.

09:39:11 15 THE COURT: Yes.

16 MR. HONEY: You'd originally said unredacted

17 administrators. You follow that with "for now". Can

18 you clarify?

19 THE COURT: What do you mean "for now"?

09:39:20 20 MR. HONEY: That's what you said. You said --

21 THE COURT: Well, that shall be produced --

22 MR. HONEY: Okay.

23 THE COURT: -- in unredacted form.

24 MS. MCLEATCHIE: And, your Honor, just so we're

09:39:29 25 clear, so we don't have the issues interpreting and

09:39:32 1 applying the order to these documents. There are
2 people that appear to be program coordinators that had
3 received a number of complaints from different schools.
4 And we're processing those complaints and passing them
09:39:43 5 on.

6 THE COURT: I want them identified too.

7 MS. MCLEATCHIE: Okay. Thank you, your Honor.

8 THE COURT: All right. Anything else?

9 MS. MCLEATCHIE: No, your Honor. Thank you
09:39:49 10 very much for your consideration.

11 THE COURT: All right.

12 MR. HONEY: Thank you, your Honor.

13 THE COURT: Prepare an order, ma'am. Everyone
14 enjoy your day.

09:39:56 15 MS. MCLEATCHIE: You too. Thank you.

16

17

18 (THE PROCEEDINGS WERE CONCLUDED.)

19

11:34:48 20

21 * * * * *

22

23

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25

REPORTER'S CERTIFICATE

STATE OF NEVADA)

:SS

COUNTY OF CLARK)

I, PEGGY ISOM, CERTIFIED SHORTHAND REPORTER DO
HEREBY CERTIFY THAT I TOOK DOWN IN STENOGRAPHY ALL OF THE
PROCEEDINGS HAD IN THE BEFORE-ENTITLED MATTER AT THE
TIME AND PLACE INDICATED, AND THAT THEREAFTER SAID
STENOGRAPHY NOTES WERE TRANSCRIBED INTO TYPEWRITING AT
AND UNDER MY DIRECTION AND SUPERVISION AND THE
FOREGOING TRANSCRIPT CONSTITUTES A FULL, TRUE AND
ACCURATE RECORD TO THE BEST OF MY ABILITY OF THE
PROCEEDINGS HAD.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
MY NAME IN MY OFFICE IN THE COUNTY OF CLARK, STATE OF
NEVADA.

/s/ Peggy Isom
PEGGY ISOM, RMR, CCR 541

	9	24/16	anywhere [1] 15/6	5/20 6/4 12/24
MR. HONEY: [40]	9:00 [1] 32/9	after [2] 3/17	apparently [1]	23/20 23/22 26/23
MR. McDADE: [1]	9:00 a.m [1] 32/11	28/12	31/18	28/24
3/11	9:05 [1] 3/2	again [4] 11/21	appear [4] 13/5	asserted [1] 26/25
MS. MCLEITCHIE:	:	15/18 21/18 27/16	13/11 13/17 33/2	asserting [1]
[47]	:SS [1] 34/2	against [2] 11/2	APPEARANCES [1]	10/12
THE COURT	A	14/20	2/1	assertion [1]
CLERK: [2] 32/7	a.m [3] 3/2 32/9	agency [1] 13/8	appeared [1]	23/18
32/10	32/11	agree [2] 8/7 9/2	29/11	assistant [2] 17/21
THE COURT: [70]	A750151 [1] 1/1	agreement [1]	appears [4] 6/20	31/9
/	ABILITY [1] 34/11	7/13	9/25 11/21 22/15	at [29] 4/2 4/13
/s [1] 34/17	able [1] 18/15	ahead [1] 16/8	Appellate [1]	5/17 5/18 6/18 7/7
1	about [22] 4/4	AHONEY [1] 2/16	14/18	9/3 9/10 11/7 12/6
1212 [2] 11/16	5/16 7/22 10/2	all [24] 3/14 4/6	applicable [3] 5/11	12/7 12/16 12/20
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14 [2] 1/21 3/1	15/4 17/12 17/14	15/3 15/25 16/24	application [2]	19/21 20/14 22/15
16 [1] 1/3	22/7 22/9 22/12	17/8 19/1 19/3	18/12 18/23	24/3 28/11 28/19
2	22/23 22/25 24/7	19/13 21/17 23/6	apply [1] 4/24	29/1 29/6 29/10
2016 [1] 21/2	24/10 24/19 25/8	23/7 25/7 26/7	applying [1] 33/1	30/13 32/9 34/6
2017 [2] 1/21 3/1	25/25 30/21 31/11	27/23 29/3 31/2	appreciate [2]	34/8
23 [1] 20/3	access [2] 10/16	33/8 33/11 34/5	20/5 26/10	attend [1] 24/5
239 [2] 25/14	20/16	allegations [1]	appreciated [1]	authorities [1]
26/13	ACCURATE [1]	15/8	14/5	16/11
239.010 [1] 8/5	34/11	alleged [2] 18/6	appropriately [2]	AVE [1] 2/5
239.0107 [3]	acknowledged [1]	27/20	20/8 26/22	AVENUE [1] 2/14
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425-8220 [1] 2/7	actually [1] 15/17	am [2] 7/21 22/8	argument [4] 7/12	barred [1] 19/14
48 [1] 16/15	ADAM [3] 2/13	amended [1] 10/9	14/4 24/15 27/3	bared [1] 19/14
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520 [1] 2/5	19/21	analysis [2] 13/4	articles [4] 12/15	basis [3] 7/5 21/7
5300 [1] 2/6	additional [4] 4/3	16/12	12/16 15/17 15/19	26/24
5373 [1] 2/15	14/23 19/7 19/20	announce [1]	articulate [1] 6/13	batch [1] 20/5
541 [2] 1/25 34/17	address [4] 4/3 4/9	15/13	articulated [1]	be [46]
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701 [1] 2/5	addressed [2] 4/12	19/6 20/4 26/3	articulating [1]	because [25] 4/1
702 [3] 2/6 2/7	7/3	28/22 28/23 30/7	23/3	4/21 6/8 7/6 7/22
2/15	addressing [3] 7/2	answered [1]	as [27] 4/19 6/5	10/4 11/7 12/5
728-5300 [1] 2/6	10/23 24/9	25/20	6/18 7/6 8/24 10/9	12/12 12/14 12/22
799-5373 [1] 2/15	adequate [1]	any [30] 4/19 4/24	11/22 11/24 13/5	13/4 15/2 15/5
8	29/19	5/2 5/8 5/20 7/5	13/6 15/3 15/3 15/9	15/11 16/4 18/4
8220 [1] 2/7	administrator [2]	7/25 8/19 9/10 9/16	17/17 17/17 20/16	19/8 23/10 23/12
89101 [1] 2/6	31/7 31/8	9/16 9/25 10/12	20/16 21/19 23/23	23/24 28/6 29/6
89146 [1] 2/15	administrators [5]	10/25 13/19 14/22	24/3 25/8 28/15	29/18 31/19
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	affidavits [1]	28/25 29/24 31/15	asked [4] 4/19	23/24 25/3 25/3
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	afraid [2] 21/12	anything [7] 12/9	asking [2] 12/21	before [4] 1/18
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(1) MR. HONEY: - BEFORE-ENTITLED

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[1] 30/14</p> <p>talking [10] 7/22 12/16 17/14 22/6</p>	<p>22/8 22/12 22/23 22/25 24/7 25/8</p> <p>teachers [4] 6/22 15/20 16/25 31/10</p> <p>tell [3] 3/14 17/4 19/4</p> <p>telling [1] 18/9</p> <p>test [1] 14/14</p> <p>than [6] 10/19 16/15 19/10 20/18 21/17 28/12</p> <p>thank [13] 7/9 11/11 14/7 16/22 19/2 26/10 27/9 32/12 32/14 33/7 33/9 33/12 33/15</p> <p>that [170]</p> <p>that's [15] 4/12 4/14 4/18 6/11 13/2 15/2 15/21 18/9 18/10 18/18 20/19 28/17 29/2 31/12 32/20</p> <p>their [18] 5/2 6/15 7/7 10/20 11/3 14/25 20/21 20/22 21/17 21/22 22/14 23/4 23/14 24/14 25/3 25/5 27/11 30/25</p> <p>them [14] 18/7 18/9 23/10 23/25 25/4 25/5 25/6 27/8 27/11 27/13 28/21 28/24 33/4 33/6</p> <p>then [4] 17/2 18/2 18/2 27/25</p> <p>there [16] 4/19 10/7 18/11 19/6 19/17 19/19 19/19 20/9 20/12 20/12 24/4 30/14 31/2 31/15 31/19 33/1</p> <p>there's [14] 8/9 8/11 9/19 9/19 9/20 13/7 14/23 14/24 15/24 19/4 21/10 23/12 29/18 30/7</p> <p>THEREAFTER [1] 34/7</p> <p>these [19] 5/15 7/7 7/18 8/24 12/8 14/24 15/7 15/12 16/2 16/3 16/3 17/1 17/7 17/8 20/16 21/4 26/5 26/22 33/1</p> <p>they [64]</p>	<p>they're [10] 5/4 10/21 10/24 20/6 20/20 20/20 20/24 22/23 23/3 23/3</p> <p>they've [3] 6/15 12/18 23/23</p> <p>thing [4] 4/18 7/21 9/3 15/18</p> <p>things [12] 4/10 7/7 12/12 15/11 16/3 16/3 28/16 28/21 28/25 29/4 29/10 30/22</p> <p>think [40]</p> <p>third [1] 14/25</p> <p>this [33] 3/15 5/13 8/2 8/11 9/3 9/8 9/24 10/16 12/17 12/19 13/4 13/6 13/20 13/22 14/11 14/20 15/16 16/12 16/14 17/3 18/13 18/23 20/14 20/24 21/9 22/13 22/19 23/11 28/23 29/3 29/12 30/7 30/10</p> <p>thoroughly [1] 4/12</p> <p>those [9] 7/1 7/3 7/5 19/23 19/24 27/15 28/16 31/10 33/4</p> <p>though [1] 6/21</p> <p>thought [1] 31/20</p> <p>threatened [1] 15/20</p> <p>Thursday [1] 30/12</p> <p>tied [1] 12/13</p> <p>time [11] 13/9 16/13 16/16 17/20 18/16 20/25 25/3 26/2 28/21 29/11 34/7</p> <p>timely [3] 10/13 23/22 28/4</p> <p>times [1] 25/4</p> <p>TIMOTHY [1] 1/18</p> <p>today [2] 3/21 15/18</p> <p>told [1] 20/2</p> <p>too [3] 30/7 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(8) unless - your

EXHIBIT 16

Alina

From: maggie
Sent: Friday, February 24, 2017 1:18 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; clmcdade@interact.ccsd.net
Subject: RJ v CCSD

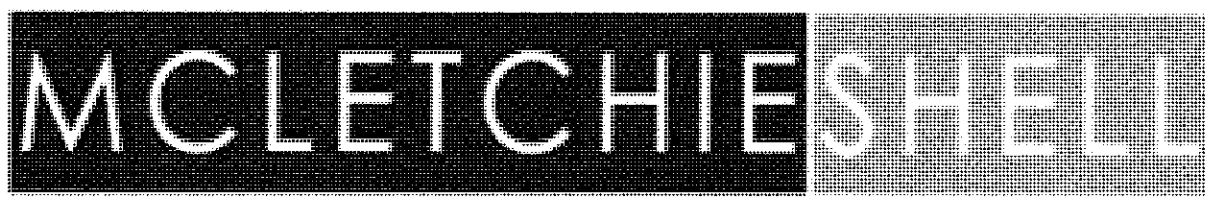
Adam,

Just left you a message. I was calling to let you know that we received the un-redacted documents. Thank you very much.

On the subsequent request for records, I had hoped to hear from you once you received responsive documents for review. Please let me know what the status is, and give me a call back when you get the chance.

Regards,

Maggie



ATTORNEYS AT LAW

701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
www.nvlitigation.com

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EXHIBIT 17

pharan@nvlitigation.com

From: maggie
Sent: Friday, February 24, 2017 1:31 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; clmcdade@interact.ccsd.net
Subject: RE: RJ v CCSD

Adam and Carlos-

Sorry for the multiple emails but I just reviewed the redactions quickly and wanted to alert you to an issue right away. It appears that the redactions on the first page violate the Court's Order. For example, the name of the principal has been redacted.

We can discuss that issue as well when you call. Thank you in advance for your prompt attention to these matters.



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From: maggie
Sent: Friday, February 24, 2017 1:18 PM
To: 'Adam Honey' <ahoney@interact.ccsd.net>
Cc: pharan@nvlitigation.com; clmcdade@interact.ccsd.net
Subject: RJ v CCSD

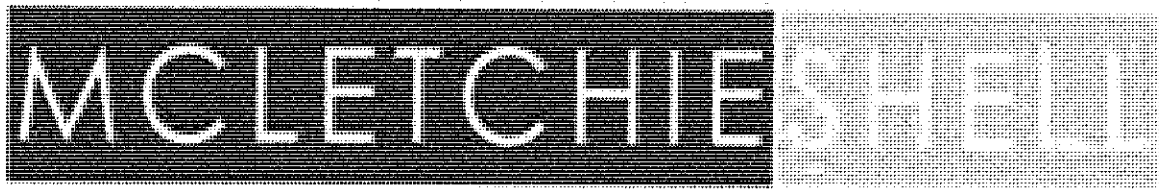
Adam,

Just left you a message. I was calling to let you know that we received the un-redacted documents. Thank you very much.

On the subsequent request for records, I had hoped to hear from you once you received responsive documents for review. Please let me know what the status is, and give me a call back when you get the chance.

Regards,

Maggie



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EXHIBIT 18

pharan@nvlitigation.com

From: Susan Gerace <sgerace@interact.ccsd.net>
Sent: Friday, February 24, 2017 4:19 PM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Adam Honey
Subject: LVRJ v. CCSD - Case No. A-17-750151-W

Dear Ms. McLetchie:

On behalf of Carlos McDade, our office is in receipt of your e-mail today. On Monday morning, we will provide you with a new version of page 1.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

EXHIBIT 19

pharan@nvlitigation.com

From: Susan Gerace <sgerace@interact.ccsd.net>
Sent: Monday, February 27, 2017 8:48 AM
To: maggie; pharan@nvlitigation.com
Cc: Carlos L. McDade; Adam Honey
Subject: LVRJ v. CCSD - Case No. A-17-750151-W
Attachments: 02.27.17 Letter to Judge Williams re page 1 revised.pdf

Dear Ms. McLetchie:

On behalf of Carlos McDade, attached for your review is correspondence to Judge Timothy Williams regarding the above referenced matter.

Susan Gerace
Office of the General Counsel
Clark County School District
5100 West Sahara Avenue, 3rd Floor
Las Vegas, NV 89146
Phone: (702) 799-5373
Fax: (702) 799-5505

OFFICE OF THE GENERAL COUNSEL

5100 WEST SAHARA AVENUE • LAS VEGAS, NV 89146 • (702) 799-5373 • FAX (702) 799-5505



CLARK COUNTY
SCHOOL DISTRICT

BOARD OF SCHOOL TRUSTEES

Deanna L. Wright, President
Dr. Linda E. Young, Vice President
Carolyn Edwards, Clerk
Lola Brooks, Member
Kevin L. Child, Member
Erin E. Cranor, Member
Chris Garvey, Member

Pat Skorkowsky, Superintendent

February 27, 2017

Via Hand-Delivery

The Honorable Timothy C. Williams
Eighth Judicial District Court, Department 16
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Re: Las Vegas Review Journal v. Clark County School District
Case No. A-17-750151-W

Dear Judge Williams:

Pursuant to the Court's Order issued in Case No. A-17-750151-W, dated February 22, 2017, enclosed is a copy of Bates labeled page 001 that has been revised as ordered by the Court. The only redaction is the name of a victim or alleged victim of sexual harassment, which the Court expressly allowed in the Order. See Order p. 6-8.

The December 5, 2016 public records request by the LVRJ (which was supplemented on December 9) is the only request subject to the Writ of Mandate. Because these documents satisfy the Order of the Court, we request that the status check set for March 2, 2017, be vacated.

Sincerely,

Carlos L. McDade
General Counsel

CLM
Enclosure

cc: Maggie McLetchie, via e-mail

Date: September 13, 2016

Re: Incident Report (Trustee Kevin Child)

Time: approximately 11:27 am (after 1st lunch)

After 1st lunch on Tuesday, September 13, 2016, I was on duty by the 300/400 hallway. As I was clearing the hallway, I saw Mr. Kevin Child walking towards me, and as he approached me, he asked me if I was a monitor. I replied, "No, Sir. I am one of the assistant principals." As I responded to his question, I noticed that he looked at me from head to toe and back, which made me uncomfortable. He acknowledged me by saying, "Oh, you are one of the assistant principals," but as he spoke, he continued to look at me from head to toe and back. This made me so uncomfortable. He continued to converse with me about the school, and I responded by telling him how I love the school and I also said that our principal, Ms. Esparza, is so awesome. Mr. Child continued to look at me from head to toe and back, which made me very uncomfortable. I noticed that he repeated the words that I said about Ms. Esparza and Valley H.S., but as he spoke to me, he looked at me from head to toe and back. When he walked away, another assistant principal, Ms. Ramona Fricker, was walking towards me, so I approached her and told her what just transpired. I told Ms. Fricker that it made me so uncomfortable. She remarked, "Ewww, he checked you out? That's disgusting." As I walked towards the top of the ramp, I saw my principal, Ms. Ramona Esparza, and I told her what just transpired, and again, I told her that it made me really very uncomfortable.



Assistant Principal
Valley High School

EXHIBIT 20

VIA U.S. MAIL AND E-MAIL

February 10, 2017

Adam Honey, Assistant General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146
Email: ahoney@interact.ccsd.net

Dear Mr. Honey:

Pursuant to Nevada's Public Records Act (Nevada Revised Statutes § 239.010 et. seq.) and on behalf of the Las Vegas Review-Journal, I hereby request the Clark County School District ("CCSD") documents listed below.

Documents requested:

Please provide any and all records (including but not limited to investigative memos, notes, reports, summaries, interviews (written or recorded), emails, correspondence, and communications to or from CCSD staff and police)¹ that have not previously been provided to the Las Vegas Review-Journal and that pertain to, discuss, or reference concerns about the actions and behavior of Trustee Kevin Child. Please include, but do not limit your production, to the following

- Records that pertain to, discuss, or reference any inappropriate sexual comments Mr. Child is alleged to have made to female CCSD employees or any appropriate sexual behavior Mr. Child is alleged to have engaged in;
- Records that pertain to, discuss, or reference any complaints (formal and informal) submitted by female CCSD employees about Mr. Child's behavior;
- Records that pertain to, discuss, or reference Concerns about female employees' concerns about being alone with Mr. Child;
- Records that pertain to, discuss, or reference concerns about Mr. Child having (or wanted to have) romantic relationships with female CCSD employees;

¹ Unless specifically limited below, please interpret "record" broadly to include hard copy records as well as electronically stored information ("ESI"). The NPRA provides broad public access to public records, requires that its terms be construed liberally, and mandates that any exception be construed narrowly. NRS 239.010(1); NRS § 239.001(2), (3); *see also Reno Newspapers, Inc. v. Gibbons*, 127 Nev. Adv. Op. 79, 266 P.3d 623, 626 (2011).

- Records that pertain to, discuss, or reference concerns that Mr. Child's behavior and/or statements have created a hostile work environment;
- Records that pertain to, discuss, or reference the factual bases for CCSD's determination that Mr. Child has violated Title VII of the Civil Rights Act of 1964;
- Records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD employees regarding their appearance;
- Records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD employees regarding sexual orientation;
- Records that pertain to, discuss, or reference concerns that Mr. Child has made inappropriate statements to CCSD students and/or employees regarding suicide;
- Records that pertain to, discuss, or reference concerns about inappropriate comments regarding inappropriate comments made by Mr. Child about race, ethnicity, or national origin;
- Records that pertain to, discuss, or reference concerns that Mr. Child engaged in inappropriate behavior at the Magnet Schools of America Conference that took place in Miami, Florida in May of 2016;
- Records that pertain to, discuss, or reference concerns about Mr. Child's behavior at events conducted at CCSD schools as part of CCSD's Professionals and Youth Building A Commitment (PAYBAC) Program;
- Records that pertain to, discuss, or reference concerns about Mr. Child's behavior at KidsVentions events;
- Records that pertain to, discuss, or reference concerns about Mr. Child's behavior while visiting any CCSD school during any instructional day; and
- Records that pertain to, discuss, or reference concerns about Mr. Child's behavior at the CCSD administrative building.

Instructions for Production; Minimizing Burdens

Please provide copies of all responsive records. I imagine that a search for "Kevin Child" would yield appropriate records. However, should any searches yield too many hits or otherwise be too cumbersome, please contact me so we can minimize any burden or any nonresponsive documents being produced. As we discussed by phone today, I am happy to work with you on ways to locate records and narrow searches if necessary. My aim is to avoid any unnecessary burden or the need for extraordinary resources while quickly obtaining documents for the Review-Journal. To that

end, and in light of the number of topics below, perhaps we can sequence the work so that I can receive documents on an ongoing basis, and at least some records as soon as possible.

For electronic records, please provide the records in their original electronic form attached to an email, or downloaded to an electronic medium. I am happy to provide the electronic medium and to pick up the records. For hard copy records, please feel free to attach copies to an email as a .pdf. I am also happy to arrange of pick- up of copies.

I will also gladly take information as it becomes available; **please do not wait to fill the entire request, but send each part or contact me as it becomes available.**

Fees and Costs

If you intend to charge any fees for obtaining copies of these records, please contact me immediately (no later than 5 days from today) if the cost will exceed \$50.00. In any case, I would like to request a waiver of any fees for copies because this is a media request, and the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the operation of CCSD. In any case, I can inspect the records in person. No fees can be charged for a request to inspect records (Nev. Rev. Stat. § 239.010 mandates that "all public books and public records of a government entity must be open at all times during office hours to inspection by any person...").

Claims of Confidentiality

If you deny access to any of the records requested in whole or in part, please explain your basis for doing so, citing the specific statutory provision or other legal authority you rely upon to deny access. NRS § 239.011(1)(d). Please err on the side of fully providing records. Nevada's Public Records Act requires that its terms be construed liberally and mandates that any exception be construed narrowly. NRS § 239.001(2), (3). Further, please also keep in mind that the responding governmental entity has the burden of showing that the record is confidential. NRS § 239.0113; *see also DR Partners v. Bd. of Cty. Comm'rs of Clark Cty.*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000) ("The public official or agency bears the burden of establishing the existence of privilege based upon confidentiality. It is well settled that privileges, whether creatures of statute or the common law, should be interpreted and applied narrowly.")

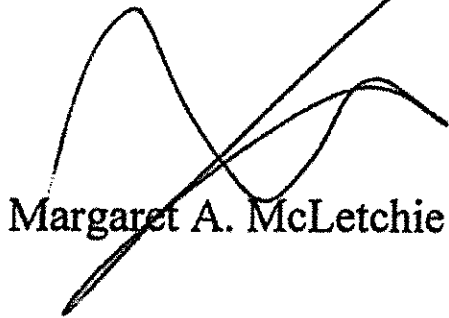
Please also redact or separate out the information that you contend is confidential rather than withholding records in their entirety, as required by Nev. Rev. Stat. § 239.010(3). Again, please cite the statutory provision you rely upon to redact or withhold part of a record.

If you deny access to any of the records requested in whole or in part, you are required to provide your legal basis for doing so in writing within five (5) days. NRS § 239.011(1)(d). **However, in light of the urgent nature of this request, please do not wait to provide documents that you are willing to provide in order to provide a log. We will be happy to cooperate with you on timing.**

Please provide the records within five (5) business days pursuant to Nev. Rev. Stat. §239.0107. Again, please email your response to efile@nvlitigation.com rather than U.S. Mail so I can review as quickly as possible.

Thank you in advance for your cooperation with my request. Please contact me with any questions whatsoever. In addition to email, you can reach me by phone at 702-728-5300.

Sincerely,



Margaret A. McLetchie

MCLETCHEE I SHELL
701 E. Bridger Avenue, Suite 520
Las Vegas NV 89101



MAILED

2/10/17

Adam Honey, Assistant General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146

B50148.10



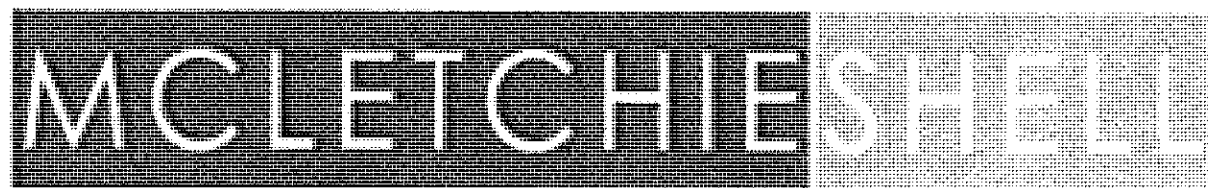
\$0.46
US POSTAGE
FIRST-CLASS
062S0008250957
89101

From: pharan@nvlitigation.com
Sent: Friday, February 10, 2017 4:03 PM
To: 'ahoney@interact.ccsd.net'
Cc: maggie
Subject: Public Records Act request
Attachments: CCSD - 2017.02.10 PRA.pdf

Good afternoon, Mr. Honey.

I am writing on behalf of Ms. McLetchie. Attached please find her correspondence dated today. A copy has also been sent by mail. Should there be questions or concerns, please contact the office.

Thank you,
Pharan Burchfield
Paralegal



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701 East Bridger Ave., Suite 520
Las Vegas, NV 89101
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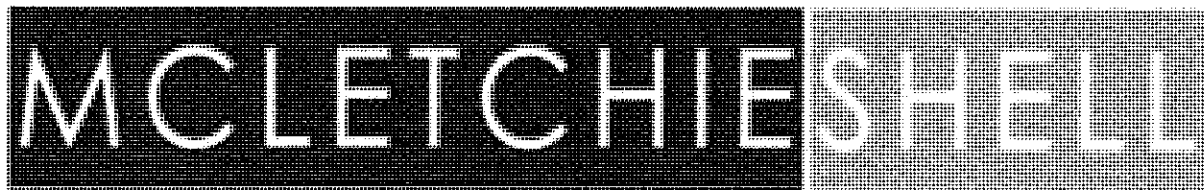
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EXHIBIT 21

Alina

From: maggie
Sent: Wednesday, February 15, 2017 1:08 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; Carlos L. McDade
Subject: RE: RJ v CCSD - Draft ORDER

Adam – Moving on to the response due Friday- please let me know when you are available to discuss. Since you are out the rest of today, could we please set a time for tomorrow?



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From: Adam Honey [mailto:ahoney@interact.ccsd.net]
Sent: Wednesday, February 15, 2017 12:43 PM
To: maggie <maggie@nvlitigation.com>
Cc: pharan@nvlitigation.com; Carlos L. McDade <clmcdade@interact.ccsd.net>
Subject: Re: RJ v CCSD - Draft ORDER

Hey Maggie,

I am sure it is no surprise to you, but I disagree. Your proposed order is still greatly over reaching and goes far beyond what is contained in the minutes. As such, attached please find CCSD's proposed order limited to the findings and order contained in the aforementioned minutes. If you are still in disagreement, we will need to submit the proposed orders to Dept. 16 and let Judge Williams decide.

As a heads up, I am out of the office after about 1:30 p.m. today so if you try to reach me after 1:30, I won't be able to respond until Thursday a.m.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:

Adam --

I haven't appeared before Judge Williams before but in my experience in other PRA matters, the courts want to address the legal and factual bases for a ruling (even if they don't use the language you note below in open court) -- and I do think this accurately reflects the judge's reasoning with regard to the law and his legal findings (5 day deadline, burden, and the failure to demonstrate confidentiality by CCSD, etc.).

I agree that the Court did not provide a specific timeframe but, based on our conversations, I thought that 24 hours would work. In any case, I have changed it on the attached to 2 days. Please let me know if you would suggest a different timeframe and why. Even though it wasn't explicitly addressed today, the Court did set a short deadline in the previous order in this matter (2 days) and I do not think an open-ended order is appropriate.

I disagree with your summary below re what needs to be redacted vs unredacted in that I think we need to start with what can be redacted, which the Court made clear was very limited., and then make clear what you must unredact to comply, if that makes sense. The items listed are just examples of what may need to be un-redacted. Further, the Court only indicated that the names of victims can be redacted -- your language below is too broad I believe. In any case, I have made some edit in the attached in light of your notes below.

I am happy to discuss this further but do not want further delays (especially in light of your view that CCSD should not have a deadline to comply) and it appears from the below that you intend to provide your own proposed order rather than edits to my draft. I respectfully contend that the Judge instructed me to prepare an order and we do not appear to be on the same page as to what an order should contain. Accordingly, I will touch base with you in the morning but with all due respect, unless it appears we can agree on the form the order should take, I intend to submit my own order (as revised) without delay -- and without relitigating this matter.

I will speak with you tomorrow.

Regards,

Maggie

image001

Attorneys at Law

701 East Bridger Ave., Suite 520

Las Vegas, NV 89101

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From: Adam Honey [<mailto:ahoney@interact.ccsd.net>]
Sent: Tuesday, February 14, 2017 4:48 PM
To: maggie <maggie@nvlitigation.com>
Cc: Carlos L. McDade <clmcdade@interact.ccsd.net>; pharan@nvlitigation.com
Subject: Re: RJ v CCSD - Draft ORDER

Maggie,

With all due respect, I believe your Order greatly over reaches the content of Judge Williams' Order today. Additionally, he did not make findings of fact.. There was no, "I hereby find" The order was strictly as to what information needed to be unredacted as that was the lone topic of today's hearing. I believe the Order was to the following affect: CCSD shall un-redact the names of all schools and administrators to include principals, assistant principals, deans, counselors, coordinators and teachers but not support staff, students or any persons complaining or reporting sexual harassment. Please note that in our view, we include "program administrators" in with administrators. We will not be splitting hairs so to speak as to the administrators. In an abundance of caution, I will wait for the minutes to ensure accuracy before I provide our proposed order. Finally, I do not recall the Judge ordering the District to un-redact the information within 24 hours or any time period for that matter. That being said, complying with the Order probably will be done within quickly, once the Order is made more accurate, as it is my intent to move this along.

Sincerely,

Adam Honey

maggie <maggie@nvlitigation.com> writes:
Carlos and Adam,

Attached please find the R-J's proposed order. Please let me know if you have any comments or proposed edits. In light of the fact that CCSD will require an order before providing the documents without redactions (and my client's continued interest in getting documents), I would really appreciate it if you would get back to me at your earliest convenience so we can submit this to the Court without delay. As ever, I am happy to discuss this matter with you. I also look forward to working with you, Adam, on resolving any issues with regard to the most recent request.

Best Regards,

Maggie McLetchie

image001

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EXHIBIT 22

From: Cynthia Smith-Johnson <csmith-johnson@interact.ccsd.net>
Sent: Friday, February 17, 2017 4:06 PM
To: pharan@nvlitigation.com
Subject: Fwd: Public Records Act request
Attachments: CCSD - 2017.02.10 PRA.pdf

Ms. McLetchie,

We are in receipt of the attached request, dated February 10, 2017, for additional records regarding Kevin Child. Pursuant to NRS 239.0107, we are unable to provide the information to you within 5 business days. The District anticipates a further response by the close of the business day on, March 3, 2017.

If some records become available before that date, we will attempt, but do not make any guarantee, to provide the same on an ongoing as requested in your correspondence.

In order to ensure that CCSD does not waive any privileges by way of this responsive correspondence, CCSD hereby asserts the following privileges but reserves the right to assert additional privileges, if necessary, at the time of production, if any:

The public records law does not require the release of confidential employee personnel information. See NRS 239.010; NRS 386.350; NAC 284.718; NAC 284.726; CCSD Regulation 1212; CCSD Regulation 4311; CCSD Regulation 4110; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990); People for Ethical Treatment of Animals v. Bobby Berosini Ltd., 111 Nev. 615, 629 (Nev. 1995); El Dorado Savings & Loan Assoc. v. Superior Court of Sacramento County, 190 Cal. App. 3d 342 (1987).

Further, to the extent documents are received or gathered by the District in the course of investigating an alleged unlawful discriminatory practice those documents are confidential. See CCSD Regulation 4110(X). Also, to the extent records include personally identifiable student information they are confidential under the Family Educational Rights and Privacy Act (FERPA). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; NRS 392.029. Other documents may be subject to the deliberative process privilege. See DR Partners v. Board of County Commissioners of Clark County, 116 Nev. 616, 621 (2000).

The United States Equal Employment Opportunity Commission has stated that employers are obligated to investigate and address instances of harassment, including sexual harassment. The EEOC also states that employees who are subjected to harassment frequently do not complain to management due to fear of retaliation. See *Faragher*, 118 S. Ct. 2275, 2292 (1998) (defense established if plaintiff unreasonably failed to avail herself of “a proven, effective mechanism for reporting and resolving complaints of sexual harassment, available to the employee without undue risk or expense”). See also Restatement (Second) of Torts § 918, comment (tort victim “is not barred from full recovery by the fact that it would have been reasonable for him to make expenditures or subject himself to pain or risk; it is only when he is unreasonable in refusing or failing to take action to prevent further loss that his damages are curtailed”).

Regarding confidentiality of an investigation, EEOC states that “[a]n employer should make clear to employees that it will protect the confidentiality of harassment allegations to the extent possible. An employer cannot guarantee complete confidentiality, since it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, information about the allegation of harassment should be shared only with those who need to know about it. Records relating to harassment complaints should be kept confidential on the same basis.”

EEOC Notice No. 915.002, date 6/18/99, *in effect until rescinded or superceded*.

“To assure employees that such a fear is unwarranted, the employer must clearly communicate and enforce a policy that no employee will be retaliated against for complaining of harassment.” As Trustee Child is a corporate officer and not subject to internal employer corrective action, the only manner in which the District may act to protect against potential retaliation is to withhold the identity of the employees. Therefore, the records of the investigation should be kept confidential under EEOC guidance.

The District and public have an interest in a strong system to address complaints of harassment that encourages reporting without fear of retaliation. A balancing of the interests weighs in favor of confidentiality and non-disclosure. See NRS 239.010; Donrey of Nevada v. Bradshaw, 106 Nev. 630 (1990).

Thank you.

Cindy Smith-Johnson

Public Records Request
Office of Community and Government Relations
publicrecordrequest@interact.ccsd.net
702-799-5865
00155503

EXHIBIT 23

VIA U.S. MAIL AND E-MAIL

February 21, 2017

Adam Honey, Assistant General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146
Email: ahoney@interact.ccsd.net

Dear Mr. Honey:

Just following up to memorialize our calls of today and Friday and to partially respond to your letter dated February 17, 2017 (responding in turn to the Review-Journal's February 10, 2017).

Order; Timely Compliance

You re-affirmed that you do not plan to begin un-redacting documents until a notice of entry is filed. Should the Court leave filing the order to you, please be sure to do so quickly. While you would not agree to a due date for compliance, you did indicate you would try to turn around the documents as soon as possible (same day or next day) when we receive an order. Thank you for your consideration and recognition of my client's desire to obtain unredacted documents as quickly as possible.

February 10, 2017 Request

I am in receipt of your February 17, 2017 response, as you know. We discussed the fact that you have simply provided "place-holder" objections so you do not waive any claims of confidentiality while you are waiting to receive and review documents. I will address those claims once I have more information (I hope to see at least some responsive document soon). You also noted that you would provide specifics regarding the documents you are withholding (or redacting) and why at a later date. Thank you. Again, as indicated in the February 10, 2017 request, please do not wait to provide documents while you are preparing a log.

Finally, you noted that you would try to comply with my request to provide documents on a rolling basis. On Friday, you indicated to me that you hoped to receive the documents today, but you had not received them (as of 4:15 pm or so). As you know, in addition to requiring timely assertion of claims of confidentiality, Nevada's Public Records Act also requires governmental entities to provide a date regarding when documents will actually be available. I look forward to that information from you once you receive responsive documents for review.

We also discussed the process for searching for and locating responsive documents. I asked what sources were being searched, and how searches were being conducted. You indicated that the search was being conducted by a completely separate department (IT) and that you were not

February 21, 2017

involved in that process. I asked you to ask the IT department for information regarding searches and suggested your participation could help ensure a timely production. I also offered to do a joint call with you and your IT department to narrow searches.

I continue to look forward to resolving the issues at hand with you as quickly as possible, and thank you for your continued attention to these matters. I understand that you aren't usually tasked with NPRA matters and I appreciate the efforts to resolve the matters we can.

Regards,



Margaret A. McLetchie

cc: file; Carlos McDade (via email only)

MCLEATCHIE I SHELL

701 E. Bridger Avenue, Suite 520
Las Vegas NV 89101



Adam Honey, Assistant General Counsel
Clark County School District
5100 W. Sahara Avenue
Las Vegas, NV 89146

pharan@nvlitigation.com

From: pharan@nvlitigation.com
Sent: Tuesday, February 21, 2017 5:50 PM
To: 'Adam Honey'
Cc: maggie; 'clmcdade@interact.ccsd.net'
Subject: Public Records Act request
Attachments: CCSD - 2017.02.21 PRA.pdf

Good afternoon, Mr. Honey.

I am writing on behalf of Ms. McLetchie. Attached please find her correspondence dated today. A copy has also been sent by mail. Should there be questions or concerns, please contact the office.

Thank you,

Pharan Burchfield

Paralegal



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EXHIBIT 24

Alina

From: maggie
Sent: Monday, February 27, 2017 6:10 PM
To: Adam Honey
Cc: pharan@nvlitigation.com; clmcdade@interact.ccsd.net
Subject: RE: RJ v CCSD

Adam,

Following up again on the documents currently under review. As it currently stands, we have a hearing 3/2 and I am hoping for an update in advance of the hearing (and, again, am here to help resolve any over-breadth issues and to make suggestions on narrowing searches if you are able to obtain that information.) Thanks in advance.

Maggie



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From: maggie
Sent: Friday, February 24, 2017 1:18 PM
To: 'Adam Honey' <ahoney@interact.ccsd.net>
Cc: pharan@nvlitigation.com; clmcdade@interact.ccsd.net
Subject: RJ v CCSD

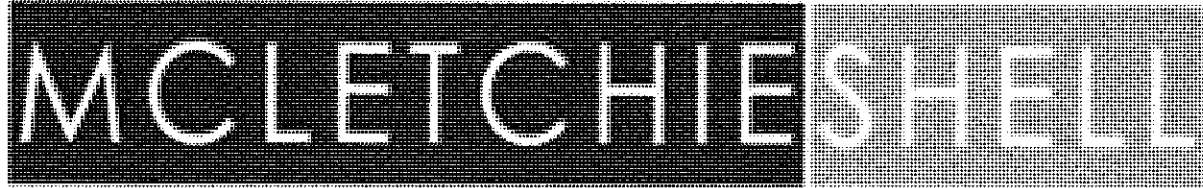
Adam,

Just left you a message. I was calling to let you know that we received the un-redacted documents. Thank you very much.

On the subsequent request for records, I had hoped to hear from you once you received responsive documents for review. Please let me know what the status is, and give me a call back when you get the chance.

Regards,

Maggie



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EXHIBIT 25

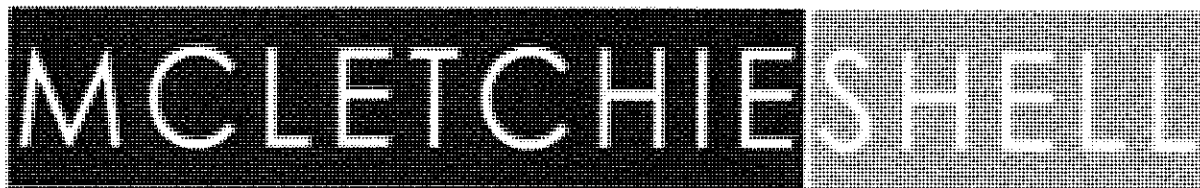
From: maggie
Sent: Wednesday, March 01, 2017 10:04 AM
To: clmcdade@interact.ccsd.net
Cc: Alina; Adam Honey; sgerace@ccsd.net; pharan@nvlitigation.com
Subject: RJ v. CCSD

Carlos:

Because my messages and letters requesting information have been ignored, I just called and spoke to Adam about the RJ's 2/10 request. He and I had previously spoken about providing documents as they were reviewed and available but I have not received any and he just indicated that this was now not possible. He also indicated that CCCSD "hoped" to have records available by 3/3 – could you please provide a date certain? Also, while CCSD previously asserted some "placeholder" objections, to the extent that CCSD does in fact withhold documents, the RJ will need more specific information. However, from speaking with Adam, it does not sound like a log or document with similar information will be provided. He indicated that you might be the appropriate person to discuss these matters with since he is not the decision-maker. Would you please get back to me at your earliest convenience about these matters? The RJ is in the process of amending its petition but I am hoping we can resolve as many matters as possible in advance of tomorrow.

Thank you for your consideration.

Maggie



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