

**IN THE SUPERIOR COURT
OF
GRAHAM COUNTY, STATE OF ARIZONA**

Date: August 22, 2011

JUDGE D. COREY SANDERS

By: Kristi Ferguson, Judicial Assistant

MATTHEW HELLER, an individual,

Plaintiff,

vs.

**SAFFORD UNIFIED SCHOOL DISTRICT, a
public body,**

Defendant.

Case No. CV2011-00165

UNDER ADVISEMENT RULING

After hearing oral argument on August, 18, 2011, the Court took under advisement the issue of whether the confidential settlement agreement entered into between Savanna Redding and the Safford Unified School District should be disclosed to the plaintiff pursuant to A.R.S. 39-121.01, Arizona's Public Records law.

The Court finds the following facts:

1. Savanna Redding and the Safford Unified School District entered into a confidential settlement agreement for damages she claimed due to an unlawful strip search conducted by school personnel.
2. Safford Unified School District is a public body.
3. The settlement agreement, including any payment records maintained by the school district, are public records and are subject to disclosure, upon proper request by any person.
4. Plaintiff requested disclosure of the records, but his request was denied by the district, citing the federal Family Educational Rights and Privacy Act ("FERPA").
5. Plaintiff filed a special action in this Court pursuant to A.R.S. 39-121.02 after the district denied access to the documents requested.
6. The stated purpose of the Arizona public records statute is to encourage transparency and full disclosure. The statutes and case law cited by plaintiff clearly supports his position.
7. Defendant school district cites a section-by-section analysis of FERPA which indicates an

interpretation by the federal Department of Education that settlement agreements relating to discrimination, wrongful death or other lawsuits are education records entitled to protection under FERPA. The district relies on an undocumented opinion by an official of the Department of Education which states that disclosure of the subject settlement agreement would violate FERPA.

8. The policy of FERPA is to protect the privacy rights of individuals by non-disclosure of educational records and does include records maintained by a school district after the student is no longer enrolled at the institution.
9. The facts of the civil lawsuit brought by Savanna Redding against the Safford Unified School District were widely publicized, including her identity and the identity of the school employees involved in the illegal search. Except for the terms of the settlement agreement, no other information has been kept private.
10. The district asserts that it does not maintain any records of actual payment or directives for payment pursuant to the terms of the settlement agreement and that the agreement does not need to be redacted to protect the privacy interests of any individuals.

As conclusions of law, the Court finds that the privacy interests of the former student, Savanna Redding, is minimal when weighed against the greater public interest for transparency in the expenditure of public funds by the district. FERPA does not address whether settlement agreements are prohibited from disclosure. The Court finds that the Arizona public records law and the cases interpreting it are more directly on point in resolving this matter. The state law is clear that disclosure is mandated. The district relies on a comment to a federal rule and can cite no federal or state case law on point.

The Court also notes that pursuant to CFR 99.31(a)(9)(i), FERPA would not be violated if disclosure of educational records is pursuant to Court order.

For the foregoing reasons, the Court grants the relief requested in plaintiff's special action and orders the Safford Unified School District to disclose the settlement agreement entered into between it and Savanna Redding, without redaction.

Each party shall bear their own costs and fees.

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