

IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

GEORGIA TRUST FOR LOCAL
NEWS, LLC d/b/a THE MACON
MELODY,

Plaintiff,

v.

THE BIBB COUNTY SCHOOL
DISTRICT,

Defendant.

Civil Action No: 2025-CV-083495

**DEFENDANT BIBB COUNTY SCHOOL DISTRICT'S RESPONSE TO PLAINTIFF'S
RULE NISI MOTION**

Defendant Bibb County School District ("District") opposes Plaintiff's Rile Nisi Motion, showing this Court as follows.

INTRODUCTION

Plaintiff attempts to frame this matter as ripe for final adjudication even though the case has not yet progressed beyond the pleading stage. In reality, this case involves difficult questions of fact and law concerning confidential student records. To resolve these sticky issues, the parties need discovery, and the Court will need to consider various precautions to preserve the confidentiality of highly-sensitive, federally-protected education records, including issuing protective orders and conducting *in camera* review of documents.

Plaintiff also attempts to frame its Open Records Act request as a run-of-the-mill request from a newspaper to a school district seeking information about settlement amounts the District approved in 2024. But Laura Corley's June 2, 2025, Open Records Act request to the District is just the tip of the iceberg, and the questions before the Court are much more nuanced than whether the Family Educational Rights and Privacy Act ("FERPA") might generally permit the District to

disclose a settlement amount in a settlement agreement that pertains to a student. Indeed, Corley's June 2 request followed a series of nearly a dozen Open Records Act requests relating to the student, the parents, and facts that gave rise to the subject settlement. The circumstances of this case involve a coordinated and targeted community effort to pierce a student's confidentiality rights and publicize information, not only about the settlement itself, but about the highly sensitive facts and circumstances that led to it. The District has a federally-mandated duty to protect the privacy of the student's education records.

Because this case is not ripe for adjudication, the Court should deny Plaintiff's Rule Nisi Motion and decline to set this case for a final hearing until after the close of discovery and the resolution of any motion for summary judgment.

BACKGROUND

The District appropriately responded to Corley's June 2, 2025 Open Records Act request when it indicated the document sought was protected from disclosure by FERPA and the Individuals with Disabilities Education Act ("IDEA"). Unsatisfied with the District's response, Plaintiff filed this lawsuit and alleges that the District violated the Open Records Act when it did not provide a redacted copy of a settlement agreement involving a student. (Compl., *generally*.) Despite Plaintiff's simplification of the issues, the District was not permitted to release even a redacted copy of the sought settlement agreement based on the confidentiality provisions mandated by FERPA and IDEA.

The District contends that the information Plaintiff seeks is not subject to disclosure under Georgia's Open Records Act, which prohibits disclosure of information that is required to be kept confidential under federal law, O.C.G.A. § 50-18-72(a)(1), and records that would jeopardize the District's receipt of federal funds under FERPA. O.C.G.A. § 50-18-72(a)(37). FERPA protects the

privacy of students' education records by prohibiting school districts from releasing them without the written consent of a parent. 20 U.S.C. § 1232g(b)(1). Nothing within FERPA contemplates the redaction or partial disclosure of a student's education record without appropriate authorization—an approach suggested by Plaintiff. Moreover, the District's defenses in this case pertain to FERPA's definition of "personally identifiable information," which includes (1) information that, alone or in combination, is linked or linkable to specific students that likely would allow a reasonable person in the community without personal knowledge of the relevant circumstances to identify the students with reasonable certainty; and also (2) information requested by a person whom the District reasonably believes knows the identity of the student to whom the education record relates. 34 C.F.R. § 99.3.

Similarly, the Individuals with Disabilities Education Act ("IDEA") requires the District to maintain the confidentiality of a student's special education records. 34 C.F.R. § 617. And under IDEA's definition of PII, "information that would make it possible to identify the child with reasonable certainty" must be kept confidential. 34 C.F.R. 300.32.

ARGUMENT AND CITATION OF AUTHORITY

Plaintiff's request for a final hearing is premature and attempts to circumvent the District's right to discovery. Rushing this case to a final hearing before the District has any opportunity to participate in and conduct discovery on the nuanced issues involved in this case would deprive the District of its right to fully develop a record and defend itself against Plaintiff's claims. And it's not just the District's defense that is at stake—a minor child's right to privacy is also on the line.

The Georgia Civil Practice Act is clear: any civil case "shall be triable any time after the last day upon which defensive pleadings were required to be filed therein; provided, however, that *the court shall in all cases afford to the parties reasonable time for discovery procedures,*

subsequent to the date that defensive pleadings were required to be filed.” O.C.G.A. § 9-11-40(a) (emphasis added). The Council of Superior Court Judges generally finds six months after the time for filing an answer or responsive pleading elapses to constitute a reasonable time. *See* U.S.C.R. 5.1.

Though Plaintiff invokes the standard of construction in O.C.G.A. § 9-11-1 to argue that a hearing should be set “at the Court’s earliest convenience,” there is no reasonable interpretation of the Georgia Civil Practice Act that would require a defendant to be subject to a final, evidentiary hearing without any opportunity to first engage in discovery. Indeed, there is no need for any statutory interpretation, because the plain language of O.C.G.A. § 9-11-40(a) entitles parties to discovery first.

In this case, the District anticipates that at least six months will be required to permit it to engage in written discovery and to conduct necessary depositions. Given the standards for PII under FERPA and IDEA, detailed above, the District’s defenses are fact-intensive and require a reasonable amount of time for discovery to be able to develop a clear record.

Adding to the complexity of this case, the student’s family has objected to the District’s release of the requested information for the purpose of protecting the student’s privacy interests. And, because this case involves highly sensitive student information, the District anticipates that it may have a need to seek a protective order, move to file pleadings and exhibits under seal, and request *in camera* inspections. *See* O.C.G.A. § 9-11-26(c), U.S.C.R. 21.2 At the end of the discovery period, when the facts reveal themselves, the District anticipates that it may move for summary judgment.

Because discovery is necessary and the case involves complexities and critical issues pertaining to the student’s privacy interests, this case is not ripe for a final hearing.

CONCLUSION

For all of these reasons, the District asks the Court to deny Plaintiff's Rule Nisi Motion in full and allow the case to proceed with a reasonable discovery track before contemplating setting the case for final hearing.

Respectfully submitted, this 13th day of October, 2025.

/s/ Caroline L. Scalf _____

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October, 2025, I electronically filed the **DEFENDANT BIBB COUNTY SCHOOL DISTRICT’S RESPONSE TO PLAINTIFF’S RULE NISI MOTION** with the Clerk of the Court using the Odyssey eFileGA filing system, which will automatically send e-mail notification of such filing to the attorneys of record:

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