

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Doe, et al., :
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 Plaintiffs, :
 :
 v. : Case No. 2:91-cv-464
 :
 State of Ohio, et al., : JUDGE MICHAEL H. WATSON
 : Magistrate Judge Kemp
 Defendants. :

ORDER

The Court has previously determined in this case that certain information otherwise protected by FERPA was discoverable (Doc. 246) and entered a general protective order (Doc. 268) dealing with the use and disclosure of such information in order to protect students' privacy interests. Subsequently, the Court approved a notice to be given to parents of students whose identifying information might be disclosed when EMIS data is turned over to Plaintiffs, and a method for providing that notice to affected parents.

After notice was given, a number of objections were filed. See Docs. 277-491. The Court has considered all of them, including those which were technically not timely filed. Most of the objections reiterate the privacy concerns which have already been addressed by the Court, and which will be further addressed by the issuance of a modified protective order. As Plaintiffs state in their most recent filing, the way in which the EMIS data will be transmitted to Plaintiffs and their expert consultants makes it "highly unlikely that the parties to this lawsuit or their experts will be able to identify individual students from the EMIS data compiled." Doc. 492, at 6. The EMIS data does not

contain any student or parent's name or address, and any identifying numbers cannot be traced to individual students. The theoretical possibility that through a combination of data points, some individual students could be identified, is not sufficient to prevent the disclosure of the EMIS data; further, the persons receiving the data will be subject to a Court order not to make identifying information available to the parties to the case, members of the Plaintiff class, or members of the public, and any identifying information that is filed with the Court will be placed under seal. Finally, at the end of the case, the EMIS data will either be returned to Defendants or destroyed. Under these circumstances, the Court is satisfied that there is no appreciable risk that the privacy interests of any student, objector or otherwise, will be compromised. The objections are therefore overruled, and the EMIS data shall be supplied by September 29, 2014, as the parties had previously agreed.

/s/ Terence P. Kemp
United States Magistrate Judge