

STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

SUPERIOR COURT

CIVIL ACTION NO. 217-2020-CV-00026

DAVID MEEHAN

v.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF HEALTH AND HUMAN SERVICES, et al.

(IN RE YDC AND YDSU LITIGATION)

**[PROPOSED] ORDER AUTHORIZING AND DIRECTING
RELEASE OF CERTAIN EMPLOYEE PERSONNEL FILES**

Plaintiffs represented by Nixon Peabody LLP and Rilee & Associates, P.L.L.C. in these consolidated actions (“Plaintiffs”) have filed an *Assented-to Motion for Court Order Authorizing and Directing Release of Certain Employee Personnel Files* (“*Assented-to Motion*”) with a proposed order attached. Defendant New Hampshire Department of Health and Human Services (“DHHS”) has assented to the relief sought in the *Assented-to Motion*, including the form of the proposed order.

In the *Assented-to Motion*, Plaintiffs represent that:

A. Plaintiffs served their First Combined Set of Requests for Production of Documents (“First RFPs”) on October 13, 2022. On November 30, 2022, Plaintiffs served their Second Combined Set of Requests for Production of Documents. And, on December 16, 2022, Plaintiffs served their Third Combined Set of Requests for Production of Documents (“Third RFPs”).

B. Both the First RFPs and Third RFPs seek production of “personnel files and records relating to” certain named employees of the Sununu Youth Services Center, Youth Development Center, Youth Development Services Unit, and their predecessor or adjunct entities (collectively, the “Sununu Center”), on the grounds that the personnel files of the named individuals may contain relevant evidence, including but not limited to performance evaluation forms, disciplinary actions, and letters of complaint that reference alleged or reported abuse of Plaintiffs or other residents. The 37 named individuals are listed in Exhibit 1 to this order.

C. Personnel records of State employees are held both in the human resources departments of the agencies they worked for (the “agency personnel file”) and at the Department of Administrative Services’ Division of Personnel (the “permanent personnel file”).¹ The two types

¹ This Court recognizes that the “permanent personnel files,” as defined in CAR Per. 1501-03 of the 37 employees listed on Exhibit 1, are held by the Division of Personnel, which is neither a party to, nor represented in, this Consolidated Action (nor is it a unit of DHHS). Solely for the purposes of this Order,

of personnel files are not identical though the release of both is governed by N.H. Code Admin. R. (“CAR”) Per. 1501.02.

D. Pursuant to CAR Per. 1501.02, the contents of employee personnel files may only be released in response to the Plaintiffs’ discovery requests pursuant to “an order of a court of competent jurisdiction” or “upon written authorization signed by the employee whose records are affected.”

E. In order for DHHS to comply with the discovery requests propounded upon it, the *Assented-to Motion* requests that this Court issue an order authorizing and directing DHHS and the Division of Personnel to release the personnel files of the 37 named individuals in response to Plaintiffs’ discovery requests in this matter.

F. Plaintiffs agree to treat the employee personnel files according to the confidentiality designations made by DHHS or the Division of Personnel pursuant to the Stipulated Protective Order in this matter.

G. Plaintiffs further agree that those requested personnel files are for those individuals who are defendants or witnesses or could be defendants or witnesses in these consolidated lawsuits or in a related criminal matter.

H. WHEREFORE, this Court orders as follows:

DHHS and the Division of Personnel are hereby authorized and directed, pursuant to CAR Per. 1501.02, to release to Plaintiffs, solely for purposes of this litigation, the “agency personnel file” and “permanent personnel file,” described in CAR Per. 1501.03(a) and (b), respectively, for the 37 employees listed in Exhibit 1 hereto.

Plaintiffs shall treat the employee personnel records produced by DHHS pursuant to this Order according to the confidentiality designations made by DHHS pursuant to the Stipulated Protective Order in this matter.

So Ordered,



Honorable Andrew R. Schulman
February 14, 2023

Date: _____

Hon. Andrew Schulman
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 02/14/2023

_____ the Court considers at least those portions of the Division of Personnel’s permanent personnel files for these 37 named DHHS employees relating to their employment at DHHS or its predecessor agencies to be subject to this Order.

EXHIBIT 1

1. Anthony Laforge
2. Anthony Paquet
3. Brad Asbury
4. Dan Carrigan
5. Dan Gray
6. Dan/Daniel Barry
7. David Ball
8. Egon Jensen
9. Eric Skillings
10. Frank Davis
11. Gordon Thomas Searles
12. James Woodlock
13. Jeff Buskey
14. Jennifer (Veilleux) Doyle
15. John Chaisson
16. Jonathan Brand
17. Joseph Peters
18. Julie Conway
19. Kirstie Bean
20. Lamont Hicks
21. Lorrie Lutz
22. Lucien Poulette
23. Mark Greenwood
24. Paula Powell
25. Peter Favreau
26. Philip Nadeau
27. Richard (Dick) Brown
28. Richard (Dick) Croteau
29. Robert Kukla
30. Rochelle Edmark
31. Stanley Watson
32. Stephen Murphy
33. Tim Roy
34. Trevor Middleton
35. Victor Malavet
36. Wesley Oates
37. William Woodson