STATE OF MICHIGAN

COURT OF CLAIMS

GOVERNMENT ACCOUNTABILITY & OVERSIGHT, a Wyoming nonprofit corporation,

Plaintiff,

v

Case No. 24-000060-MZ

REGENTS OF THE UNIVERSITY OF MICHIGAN,

Hon. Brock A. Swartzle

Defendant.
_____ /

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S 10/7/25 MOTION TO COMPEL AFTER *IN CAMERA* REVIEW

Before the Court is plaintiff's motion to compel defendant, Regents of the University of Michigan ("the University"), to produce unredacted versions of nonparty Professor Rothschild's Faculty Annual Reports ("FARS"). The FARS are forms provided yearly by the University and filled out by faculty and submitted to superiors. The FARS include seven sections, including: teaching, internal service, attendance, research, external contributions (other scholarly activities, public citizenship, award, grants, honors, and prizes), goals, and "other." Plaintiff contends that because the dispute in this case concerns what activities fall within the scope of Professor Rothschild's official duties as part of her role as a law professor at the University, Professor Rothschild's responses and the University's evaluation of her activities are highly relevant and probative.

The University, in response, contends that the redacted versions of the FARS fulfill its discovery obligation. It contends that it left unredacted information that is related to plaintiff's FOIA request while redacting information that is not relevant to the issues in this case. The Court ordered the University to provide unredacted copies of the FARS for the Court's *in camera* review before ruling on plaintiff's motion. The Court has performed the *in camera* review and is ready to make a ruling.

The University redacted the FARS reports on the basis that the redacted material is not relevant to plaintiff's FOIA requests. Plaintiff's FOIA requests sought information pertaining to Professor Rothschild's work with outside parties on certain legal work promoted by the University. In a previous motion for summary disposition, the University argued that the records sought are not public records because they are personal communications between Professor Rothschild and a pro bono client and not communications made pursuant to her job duties at the University. The Court denied the University's motion, concluding, in part, that discovery was needed to determine whether Professor Rothschild's records are related to the University in any manner relevant to FOIA and that further discovery stood a fair chance of uncovering factual support for plaintiff's position that the records described in the FOIA requests are public records.

Michigan's "[d]iscovery rules are to be liberally construed in order to further the ends of justice." *Woodington v Shokoohi*, 288 Mich App 352, 361; 792 NW2d 63 (2010) (cleaned up). Generally, any document which is relevant and not privileged is freely discoverable upon request. *Id*.; see MCR 2.302(B)(1). Relevant evidence is evidence that tends to make the existence of a fact of consequence more or less likely to be true. MRE 401.

The University, by providing the FARS annually to faculty, considered the requested information regarding Professor Rothschild's activities outside the University to be relevant to her

position as a law professor at the University. Professor Rothschild, by disclosing the information requested in the FARS without apparent objection on the form report, similarly considered the information relevant to her academic career at the University. Certain of the redacted information in the FARS, in addition to the unredacted information that the University has already provided, appears relevant to whether Professor's work outside the University is related in any manner to the University or to her work at the University.

The Court therefore orders the University to unredact the following sections of Professor Rothschild's responses:

- FAR 2022-2023, II. 7.
- FAR 2022-2023, V. A.
- FAR 2022-2023, V. B.
- FAR 2022-2023, VII. 1., 2., 3.
- FAR 2023-2024, II. 6.
- FAR 2023-2024, V. A.
- FAR 2023-2024, V. B.
- FAR 2023-2024, VII. 1., 2., 3.

The University shall provide the FARS with Professor Rothschild's unredacted responses in the above sections within 10 days of the date of this order.

The University has not moved for a protective order, so the Court will not specifically address the requests made by defendant in its response brief. In any event, the University has not set forth reasons sufficient for filing matters under seal. MCR 8.119(I).

IT IS SO ORDERED. This is not a final order and does not close the case.

Date: November 5, 2025

Hon. Brock A. Swartzle
Chief Judge, Court of Claims