DISTRICT COURT CITY & COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202 DATE FILED: September 27, 2022 4:56 PM CASE NUMBER: 2022CV31898	
Plaintiff: CLAY BURLEW v. **Defendants: ENID WADE**, in her official capacity as General Counsel for Denver Health and Hospital Authority; **JUDITH BENTON**, in her official capacity as Senior Assistant General Counsel for Denver Health and Hospital Authority; and **DENVER HEALTH AND HOSPITAL AUTHORITY**	▲ **COURT USE ONLY** ▲ Case Number: **2022CV31898** Courtroom: 269

ORDER ON DEFENDANTS' FORTHWITH MOTION TO CONTINUE HEARING AND ORDER ON APPLICATION OF § 25-29-109

Before the Court is Defendants' forthwith motion to continue the October 4, 2022 hearing and for a forthwith status conference. Defendants assert that the Court should hear additional briefing on whether the records at issue in this litigation are public records subject to disclosure and that it should continue the October 4, 2022 hearing due to the need for a ruling on the scope of § 25-29-109, C.R.S. and due to witness unavailability. Plaintiff opposes all aspects of the motion.

I. Background

Plaintiff filed an application for an order to show cause seeking to compel Defendants to produce variety of records for inspection. The application is fully briefed and the Court set a hearing on the application on October 4, 2022. The parties submitted a number of exhibits with the briefing on the motion. The Court has reviewed all the exhibits, but need not summarize them here for purposes of this motion.

II. Threshold question of whether the records at issue are "public records"

Defendants, officials of Denver Health and Hospital Authority (DHHA), assert that before determining whether records were improperly withheld, the Court must determine whether they are public records subject to disclosure in the

first instance and that that Court should entertain additional briefing on this issue. The Court agrees that whether the records at issue are public records is a threshold question that the Court must first resolve. *See Mountain-Plains Inv. Corp. v. Parker Jordan Metro. Dist.*, 2013 COA 123, ¶¶ 19-21; *see also Wick Commc'ns Co. v. Montrose Cty. Bd. of Cty. Comm.*, 81 P.3d 360, 362 (Colo. 2003). Unless the records are public records, there need not be further inquiry as to whether the records were improperly withheld.

Additional briefing on this issue, however, will not materially aid the Court. Plaintiff identified § 25-29-109 in her initial application, and the parties have robustly argued the parameters and application of that statute in their response and reply to the application, briefing on the current forthwith motion, and attached prior correspondence detailing their positions on this issue. As a result, the Court may proceed at this juncture to make determinations about the scope of § 25-29-109 and its application to the records at issue.

A. Legal authorities, including § 25-29-109

The threshold question requires the Court to interpret DHHA's enabling statute. In doing so, the Court employs settled principles of statutory construction. When reviewing statutes, courts must give effect to the legislature's intent by "look[ing] first to the statutory language itself, giving words and phrases their commonly accepted and understood meaning." *Spracklin v. Indus. Claim Appeals Office*, 66 P.3d 176, 177 (Colo. App. 2002). Courts must "give effect to every word, phrase, clause, sentence, and section…" *McMillin v. State*, 405 P.2d 672, 674 (1965) (internal quotations omitted). "[I]n the interpretation of a statute, the legislature will be presumed to have inserted every part thereof for a purpose, and to have intended that every part of a statute should be carried into effect." *Id.* (internal quotations omitted); *see also Abu-Nantambu-El v. State*, 2018 COA 30, ¶ 10 ("The legislative choice of language may be concluded to be a deliberate one calculated to obtain the result dictated by the plain meaning of the words.") (internal quotations omitted). The Court's analysis may begin and end with the plain language of the

threshold requirement because "it may be presumed that the General Assembly meant what it clearly said." *Spracklin*, 66 P.3d at 177.

The Court must also consider DHHA's enabling statute against the backdrop of the Colorado Open Records Act (CORA). Under CORA, it is "the public policy of this state that all public records shall be open for inspection by any person" unless the records fall within certain exceptions. § 24-72-201, C.R.S.; *see also* § 24-72-203, C.R.S. ("All public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise provided by law…"). Indeed, courts have described a "strong general rule that public records should be disclosed." *Jefferson Cnty. Educ. Ass'n v. Jefferson Cnty. Sch. Dist. R-1*, 2016 COA 10, ¶ 25. Typically, "public records" are those maintained by any state or local authority. *See* § 24-72-202(6), C.R.S.

DHHA's enabling statute, however, specifies that only certain records of DHHA are "public records" subject to CORA:

> The resolutions and other proceedings of the board of directors, minutes of the board meetings, annual reports and financial statements, certificates, contracts and financial agreements, employee salaries, and bonds given by officers, employees, and any other agents of the authority, and any personnel reports, guidelines, manuals, or handbooks, other than individual personnel files, are a public record as defined in section 24-72-202(6) and subject to part 2 of article 72 of title 24. The account of all money received by and disbursed on behalf of the authority is also a public record.

§ 25-29-109. The statute also specifies that certain records are not public records, including individual medical records and other records concerning patient care and authority health-care programs or initiatives. *Id.*

Plaintiff contends that § 25-29-109 does not alter the application of CORA to DHHA's records. The Court disagrees. The plain language of the statute enumerates a defined list of records that are public records. And it states that CORA applies to DHHA's records only to the extent that the records are public records as defined in § 25-29-109. The Court is bound by this plain language.

The Court does not find that the language of § 25-29-109 is ambiguous, and therefore, does not consider the legislative history. The Court, however, may compare the current language with the prior language of the statue. The prior version of the statue stated that all of DHHA's records were public records. § 25-29-109 (2017) (amended 2018); *see also Axios v. Denver Health & Hosp. Auth.*, 2019CV34834, Order Regarding Plaintiff's Amended Complaint and Application for Order to Show Cause, at *11 (Colo. Dist. Ct. Sept. 18, 2020) (finding that 2018 amendments clarified DHHA's enabling statute and specified which of DHHA's records are subject to CORA). The Court also considers the differences between DHHA's enabling statute and CORA. In contrast to § 25-29-109, CORA broadly applies to all writings of a public office. § 24-72-202(6)(a)(I).

The Court rejects Plaintiff's contention that the list of public records in § 25-29-109 is illustrative rather than exhaustive. Section 25-29-109 does not contain any language that would permit the Court to conclude that records of DHHA are considered public records outside the identified list. For example, the statute does not say that "public records include…" Nor does it state that all records of DHHA are public records. Plaintiff also argues that § 25-29-109 only applies to records of the Board of Directors and not the Authority. But neither the records identified as public records nor the explicit exemptions for patient care documents are limited to records of the Board of Directors. Plaintiff further argues that the exemptions in § 25-29-109 would not be necessary unless all records of DHHA are public records. The Court rejects that construction of the statute. The listed exemptions for items such as patient care records do not render the prior list of public records superfluous. Rather, the structure of § 25-29-109 mirrors the structure of CORA in which certain records are identified as public records, and in addition, certain records are expressly exempted.

Based on the plain language of the statute, the Court concludes that not all records of DHHA are public records. DHHA records are only subject to CORA if they fall within the enumerated list in § 25-29-109.

B. Burden of Proof

Having found that DHHA's obligation to produce records for inspection is bounded by the plain language of § 25-29-109, the Court next considers who bears the burden to demonstrate that the records at issue fall within the list of records in § 25-29-109. Defendants contend that the initial burden is on Plaintiff to demonstrate that the records are public records; Plaintiff disagrees.

The Court finds that cases interpreting CORA are persuasive on this question given the similarity of issues. Under CORA, the burden of proof to show that a record is not a public record subject to disclosure rests with the government entity holding the record. *Mountain-Plains Inv. Corp.*, 2013 COA 123, ¶ 23. The burden lies with the government agency "because it holds the necessary information." *Id.*; *see also Wick Commc'ns Co.*, 81 P.3d at 363 ("If a party requests a document that the public entity believes to be outside of the provisions of CORA, either because the public entity thinks it is not a public record as defined by CORA, or because it falls under one of the public record exceptions, the public entity is in the best place to demonstrate why CORA does not apply."). While "the initial burden is on the requesting party to demonstrate that the records at issue are likely public records[,]" that burden shifts when "the agency is the custodian of the records sought and the records are 'made, maintained, or kept' in a public capacity." *Denver Pub. Co. v. Bd. of Cnty. Comm'rs of Cnty. of Arapahoe*, 121 P.3d 190, 199 (Colo. 2005). At that point, the "burden then shifts to the public agency to show that the records are public[.]" *Id.*

Here, there appears to be no doubt that the requested records – to the extent they exist – are agency records kept by DHHA. As the holder of the records, Defendants are in the best position to prove that they are not subject to the agency's enabling legislation. Therefore, the Court finds that Defendants bear the burden to show that the requested records are not public records subject to inspection under § 25-29-109.

C. Pay based policies, leadership stipend policies, and Sullivan Cotter report

DHHA has produced a policy document titled, "Annual Increases" relating to salary increases. Plaintiff seeks other policies or guidelines relating to how DHHA

sets salaries, including policies covering "pay bands," "compensation infrastructure," and "leadership stipends." *See* Application, Exh. E. Plaintiff also seeks a document it describes as "Sullivan Cotter Physician Compensation Surveys/Guidance." *Id.* Neither party has explained to the Court the nature of this document. Defendants argue that these additional requested documents are not within § 25-29-109's enumerated categories of public records. Plaintiff argues that these documents are policy documents that may be considered "personnel reports."

In assessing the documents at issue, the Court will broadly interpret the enumerated list in § 25-29-109 in light of the general presumption under open records laws that documents be available for public access. *See, e.g.*, *Daniels v. City of Commerce City*, 988 P.2d 648, 651 (Colo. App. 1999); *see also* § 24-72-201. And in applying exemptions to CORA, exemptions must be narrowly construed. *Jefferson Cnty. Educ. Ass'n v. Jefferson Cnty. Sch. Dist. R-1*, 2016 COA 10, ¶ 14.

To the extent that DHHA holds additional policies relating to the setting of salaries or pay bands, the Court finds that such documents would fall within the category of "guidelines" under § 25-29-109. By defining public records to include "any personnel reports, guidelines, manuals, or handbooks, other than individual personnel files," the plain language of the statute as a whole makes clear that the legislature intended that policies governing DHHA employees be available to the public. The Court also notes the statute's use of the word "any," denoting a broad interpretation. *Freedom Newspapers, Inc. v. Tollefson*, 961 P.2d 1150, 1154 (Colo. App. 1998) ("'[A]ny' is a term of expansion without restriction or limitation.").

The Court cannot discern from the current record the nature of Sullivan Cotter report and whether it would fall within § 25-29-109. The Court, therefore, directs Defendants to submit the Sullivan Cotter report for in camera review using the instructions at the end of this order. Following that in camera review, the Court may have additional questions for Defendants about the nature of this report at the upcoming hearing.

Defendants next argue that even if these records are public records, disclosure would give DHHA's competitors in the metro area an unfair competitive

bargaining advantage and that the records should be withheld under § 25-29-109. The Court rejects that argument. Not all DHHA documents about programs and initiatives are exempt from disclosure if they would afford competitors an unfair bargaining advantage – those terms are qualified and cover only programs and initiatives about patient care and health care. The full text of DHHA's statute says, "all writings and other records concerning the modification, initiation, or cessation of patient care and authority health-care programs or initiatives shall not be deemed to be a public record if premature disclosure of information contained in such writings or other records would give an unfair competitive or bargaining advantage to any person or entity." § 25-29-109. As a result, the phrase "programs or initiatives" is modified by the phrase "concerning … patient care and authority health-care." *Id.* Thus, only those records relating to patient care and authority health-care programs or initiatives that would afford competitors an unfair bargaining advantage may be exempted from inspection.

These documents may nonetheless be protected from disclosure under CORA if they contain confidential information, as Defendants argue. *See* § 24-72-204(3)(a)(IV). At this point, the Court has only arguments of counsel. The Court cannot determine whether these documents should be exempted from disclosure because they contain confidential information without the benefit of evidence, and Defendants must be prepared to present evidence of the competitive nature of these documents at the upcoming hearing, pending the outcome of the Court's threshold review.

Defendants also argue that the Sullivan Cotter report is subject to the deliberative process privilege because it was provided for the benefit of DHHA's decision making. The deliberative process privilege applies when the disclosure of the material sought would expose an agency's decision-making process in such a way as to discourage discussion within the agency and undermine its ability to perform its functions. *City of Colorado Springs v. White*, 967 P.2d 1042, 1045 (Colo. 1998). The privilege applies only to pre-decisional, deliberative materials and may be waived when the material is incorporated into an agency's final decision. *Id.* at

1051-52. At this juncture, the Court cannot determine whether the Sullivan Cotter report qualifies for protection under the deliberative process privilege, and Defendants should be prepared to present evidence on this point at the hearing, again, pending the Court's determination at the hearing that the documents are public records.

D. Employee salaries and bonuses

Plaintiff seeks salaries and bonuses of physicians and AAPs in the Surgery Department from 2018 to the present, including their employment contracts. *See* Application, Exh. E. Plaintiff also seeks the "CFTE/FTE requirements" and the maximum "pay range" for the Surgery Department. *Id.*

While Defendants assert that they have provided salary information, Plaintiff disputes that full information has been provided, arguing that Defendants provided only one undated document. Salary information expressly falls within the definition of a public record under § 25-29-109. Defendants should produce additional salary records and/or be prepared to discuss this item with the Court at the upcoming hearing.

As to bonuses, Defendants argue that that bonuses are not covered by § 25-29-109. Indeed, the plain language of 25-29-109 states that "salaries" are public records of DHHA. Notably, the statute did not say that records of "compensation" are public records, although that term is used in CORA and other statutes. *See, e.g.*, § 8-2-129, C.R.S.; § 22-69-104, C.R.S.; § 24-72-202, C.R.S. However, § 25-29-109 separately provides that DHHA's public records include records of all money disbursed on behalf of DHHA. This portion of the statute is not qualified, nor would the Court expect it to be, given that the presumption favoring public disclosure under "sunshine laws" like CORA and § 25-29-109 is especially strong when involving the public's right to know how the government spends public funds. *See Freedom Newspapers*, 961 P.2d at 1156-57; *see also Axios*, 2019CV34834, at *11 (concluding that documents concerning funding from opioid manufacturers in the possession of DHHA are public records subject to disclosure unless such documents contained confidentiality clauses, as they would put DHHA at a competitive

disadvantage). Bonus information, therefore, falls within the plain language of § 25-29-109.

Having found that bonuses paid by DHHA are public records, the Court next must consider whether bonus information is confidential information that is nonetheless shielded from disclosure under § 24-72-204(3)(a)(IV). On this point, the Court has nothing more than the arguments of counsel, and DHHA must present evidence to demonstrate its entitlement to an exception at the hearing.

E. Reports of Employment Matters

Plaintiff seeks an investigation report from Employment Matters, LLC, as well as related correspondence between Employment Matters and DHHA employees, reports of Employment Matters interviews with employees, correspondence and findings relating to the culture and improvements in the Department of Emergency Medicine, and correspondence regarding a specific physician's consideration for the position of "DOS for the Surgery Department." *See* Application, Exh. E. Defendants argue these documents all fall outside § 25-29-109, including because an investigation report is not a "personnel report." Plaintiff responds that this report is a report from DHHA personnel on the culture of the Surgery Department and that the report falls within the definition of a personnel report under § 25-29-109.

Contrary to Plaintiff's assertion, this Court's prior order in *Denver Health Workers United v. Denver Health and Hospital Authority*, 2021-CV-32935 (Aug. 5, 2022) did not hold that internal investigations may be personnel reports. Rather, this Court held that § 25-29-109's reference to personnel reports contemplates the release of some information about the collective DHHA workforce as opposed to information in which specific employees would have an expectation of privacy.

The Court cannot determine based on the current record whether the Employment Matters investigation report – or portions of it – is a personnel report subject to disclosure under § 25-29-109. The same is true for a prior report related to the Department of Emergency Medicine. Defendants must submit these documents for in camera review prior to the hearing. Based on its in camera review,

the Court may request additional information about the reports at the upcoming hearing in order for the Court to determine whether these documents are public records under § 25-29-109.

The Court separately considers Plaintiff's request for correspondence about the reports or correspondence about a particular physician's consideration for a permanent Director of Service position for the Surgery Department. This presents a closer call. Whereas CORA is clear that all writings – and therefore, all correspondence – are open records, § 25-29-109 contains no such language. Adhering to the plain language of the statute, the Court concludes that internal correspondence about the listed categories of public records are not identified as public records. As a result, Defendants have not wrongfully withheld correspondence about the employment reports or correspondence about a particular physician, and Plaintiff's application is denied to that extent.

Defendants also argue that the Employment Matters and Department of Emergency Medicine reports are covered by the CORA exceptions for confidential information and the attorney client privilege, the attorney work product doctrine, and the deliberative process privilege. To the extent that Plaintiff seeks information about the consideration of a specific physician at DHHA for a specific position, Defendants argue that the person's privacy rights are at issue and therefore, the personnel file exception in CORA, § 24-72- 204(3)(a)(II)(A), would apply. In support of its assertions of privilege, Defendant Benton submitted two sentences in her affidavit stating that the investigation by Employment Matters was done at the direction of counsel and that the information was strictly confidential.

Plaintiff responds that Defendants have not proved their claimed exemptions, including because Defendants do not demonstrate that the report was for the purpose of seeking legal advice, employees were told that the information would not be confidential, and DHHA waived any claims of confidentiality by disseminating a summary to employees and providing the full report to DHHA's Chief Medical Officer.

Should the Court find that these documents are personnel reports or otherwise covered by § 25-29-109, the Court will require the parties to present evidence at the upcoming hearing of the privileged or confidential nature of these records and whether the privilege has been waived.

F. Complaints of gender discrimination

Plaintiff seeks complaints of gender discrimination in the prior six months and asserts that identifying information may be redacted. *See* Application, Exh. E. Defendants respond that complaints of discrimination are not personnel reports. Defendants also argue that the complaints contain confidential information, and are subject to the deliberative process privilege. Defendants also argue that employees making allegations have an expectation of privacy in the complaints. Plaintiff's reply did not address complaints of discrimination.

To the extent that Plaintiff seeks complaints of gender discrimination made by individual employees, the Court does not find that such complaints fall within § 25-29-109, including as personnel reports.

"Personnel reports" is not a defined term in CORA, DHHA's enabling statutes, or generally in the Colorado Revised Statutes. *See* § 24-72-201; § 25-29-102; § 2-4-401; *see also* § 23-21-502 (University of Colorado Hospital Authority enabling act, which employs language similar to the DHHA enabling act).

"Personnel" means, "[c]ollectively, the people who work in a company, organization, or military force." PERSONNEL, Black's Law Dictionary (11th ed. 2019). The Court, therefore, concludes that the plain language of DHHA's statute contemplates the release of some information about DHHA's workforce. In addition, the Court observes that Colorado statutes use the terms "personnel reports" and "personnel files" in very different ways. DHHA's recently amended statute uses the term "personnel reports," which is distinct from CORA's exception for the contents of "personnel files." § 24-72-202(4.5) (defining "personnel files" as "home addresses, telephone numbers, financial information, a disclosure of an intimate relationship filed in accordance with the policies of the general assembly, other information maintained because of the employer-employee relationship…"). Material protected

from disclosure in personnel files usually implicates documents in which "a legitimate expectation of privacy" exists. *Jefferson Cnty. Educ. Ass'n*, 2016 COA 10, ¶ 47.

To the extent employees have filed complaints of discrimination relating concerns with discrimination they experienced, the complaints are not personnel reports, and they do not appear to fall within any of the other enumerated documents in § 25-29-109. The Court, therefore, finds that the threshold determination that public records have been withheld is not satisfied in this instance, and Plaintiff's application is denied to this extent that Plaintiff seeks individual complaints of discrimination.

G. Internal job postings

Plaintiff seeks internal job postings for "the Interim Director of Services position for the Surgery Department … from 2019 to present, as well as the same information for the internal job posting for the Associate Director of Services between 2019 and present, and the Associate Director of Services posting for Subspecialty Surgery." *See* Application, Exh. E. Defendants assert that job postings are not enumerated in § 25-29-109. Plaintiff responds that the records are covered by CORA, which provides that employment applications are open to inspection.

The Court, however, must determine whether the job postings fall within the documents identified in § 25-29-109, not whether they are subject to inspection under CORA. Section 25-29-109 provides that "contracts and financial agreements" are public records. Interpreting that phrase liberally, as the Court must, the Court finds that the statute's reference to contracts and financial agreements includes documents integral to DHHA's contracts and financial agreements. Because job postings are the first step in a contract for employment and would be integrally connected to a contract for employment, the Court concludes that job postings fall within the ambit of § 25-29-109.

H. Conclusion

As detailed herein, the Court may resolve the contested status of some documents based on their facial descriptions and the briefing at this juncture.

Plaintiff's application is granted in part as to some documents, and denied in part as to other documents.

The Court will require in camera review of some additional documents and may require additional presentations of evidence to resolve their status as public records. The Court will hear any such evidence and rule on the threshold issue of whether they are public records under § 25-29-109 before proceeding to consider Defendants' assertions of other exemptions under CORA. The Court then may require evidence to resolve Defendants' assertions of privilege or confidentiality and whether those privileges have been waived. In the interest of judicial efficiency, the Court will conduct a single hearing on all these issues.

Defendants should submit the requested documents for the Court's review within 10 days of this order by filing them as "SEALED" documents. Defendants should e-file the documents with a note in the comments to the filing that "The exhibits should be sealed pursuant to the September 26, 2022 Order." Please ensure the comment is included, because if the file is only "protected," it will be accessible to the public after redaction. If there are any issues with adding the comment, please contact the Clerk's Office before filing at (303) 606-2330.

III. Remaining Issues

A. Whether the hearing must be continued

Defendants assert that the hearing must be continued because Defendant Wade will be out of town. It eludes the Court how Defendants agreed in good faith to a hearing date when Defendant Wade is scheduled to be out of town, considering that Defendants intend to raise issues of attorney-client privilege.

Continuances rest within the sound discretion of the trial court. *Todd v. Bear Valley Vill. Apartments*, 980 P.2d 973, 976 (Colo. 1999). Continuances may be granted only for good cause shown. Colorado Rule of Civil Procedure 121, 1-11. The Court also notes that CORA requires that hearings be set at the earliest practical time on the issue of whether a custodian improperly withhold records. § 24-72-204(5)(b).

The Court would deny the continuance of the hearing based on Defendant Wade's unavailability based on a lack of showing of good cause, but will grant a short continuance in light of the need for the Court to conduct some in camera review before the hearing. The parties should contact the Courtroom Clerk for Courtroom 269 within 7 days of this order to reset the hearing to take place no later than November 10, 2022. If the parties cannot agree on a date, the Court will select the date.

Implicit in this order is a determination that the Court does not require a forthwith status conference as requested by Defendants, and that request is denied.

B. *Vaughn* Index

Plaintiff requests that the Court require Defendants to provide a so-called *Vaughn* index identifying responsive documents that are being withheld on the basis of a privilege. Under CORA, a privilege log is required only for documents being withheld on the basis of the deliberative process privilege. § 24-72-204(3)(a)(XIII). Defendants' other privilege assertions do not require production of an index or privilege log.

In these circumstances, the point at which Defendants would be required to provide a log for their deliberative process privilege assertions has not yet arisen. Defendants have asserted the deliberative process privilege in the event that the Court determines that the records at issue are public records. *See, e.g.*, *White*, 967 P.2d at 1053-54. Because the Court has not yet made that determination, no index is required at this juncture.

C. Whether defendants are properly named and whether Defendants must identify custodians

The parties argue about whether the individual defendants are properly identified as parties and whether Defendants have identified the custodians of the records sought. No motion has been made on this point, and the Court finds that none is necessary. Here, Defendants are sued in their official capacities. An official capacity suit is the functional equivalent of an action against a government agency. *Churchill v. Univ. of Colorado at Boulder*, 2012 CO 54, ¶ 32. Whether the suit

names DHHA or employees acting on behalf of DHHA in their official capacity is of no import.

Plaintiff argues that DHHA must disclose its record custodian when requested, citing § 24-72-203(2)(a). The Court finds that a custodian must identify the person who has custody or control of records only when the custodian responding to the request states that they do not have custody or control of the records. *Id.* The Court does not understand Defendants to be denying inspection on the grounds that they do not have the requested records. As a result, Defendants – responding on behalf of DHHA – need not further identify the individual custodians of particular records.

D. Fees

The Court acknowledges each party's outstanding request for fees. The Court will address the fees requests at the conclusion of the upcoming hearing.

IV. Conclusion

For the reasons set forth above, the Court grants Plaintiff's application as to her request for salary information and job postings. The Court denies Plaintiff's application as to Plaintiff's requests for internal correspondence and employee complaints of discrimination. The Court finds that in camera review is necessary for the following records:

- Sullivan Cotter Physician Compensation Surveys/Guidance
- Employment Matters Investigation Report
- Department of Emergency Medicine Report.

The Court will resolve the remaining threshold issues and Defendants' assertion of CORA exemptions at the upcoming hearing. The Court grants a brief continuance of the October 4, 2022 hearing. The Court denies Defendants' request for a forthwith status conference and additional briefing on disputed records.

SO ORDERED this 27th Day of September, 2022.

BY THE COURT

STEPHANIE L. SCOVILLE
Denver District Court Judge