



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

June 29, 2010

Mr. Don Harris
Freedom of Information Act Officer
Granite City School District 9
1947 Adams
Granite City, Illinois 62040

RE: Pre-Approval Request - 2010 PAC 5673

Dear Mr. Harris:

We have received and reviewed the written notice from Granite City School District 9 (District) of its intent to deny disclosure of administrative evaluations and teachers' assistant evaluations as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/7(1)(c). This letter is to advise you that your request is denied.

Maria Baran and George Pawlaczyk of the *Belleville News Democrat* submitted a FOIA request dated January 27, 2010, seeking access to teacher evaluations for Patricia Patton, Wendy Knollman, and Brian Harshany, as well as teaching assistant evaluations for Alicia Gaines and administrative evaluations for Brian Harshany. In its written notice, the District asserted that administrative and teaching assistant evaluations are exempt from disclosure under Section 7(1)(c) of FOIA. In support of its assertion, the district stated that the information contained within the evaluations was highly personal. The District further stated that release of the documents would result in discrete impacts upon the educational environment, possible embarrassment and distraction of district employees, and a chilling of the evaluation process. The District also denied access to teaching evaluations for Patricia Patton, Wendy Knollman, and Brian Harshany, citing Section 7(1)(a) of FOIA and Section 24A-7.1 of the Illinois School Code. 105 ILCS 5/24A-7.1. Only the use of Sections 7(1)(c) and 7(1)(f) of FOIA require preapproval from our office, and this determination only addresses the applicability of Section 7(1)(c).

Please note that this determination addresses only the applicability of Section 7(1)(c) regarding administrative and teaching assistant evaluations. Public bodies must seek preapproval from the Public Access Counselor for the use of the Section 7(1)(c) and Section 7(1)(f) only. Use of Section 7(1)(a) requires no preapproval from our office, and we decline to independently determine whether use of that exemption regarding teacher evaluations is appropriate in this case.

Determinations

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained

May 27, 2010

Page 2

within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information." 5 ILCS 140/7(1)(c). The exemption defines "[u]nwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." *Id.* However, "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy." *Id.*

The District's use of the exemption in Section 7(1)(c) with regard to teaching assistant and administrative evaluations is **denied**. The evaluations of public employees impact what duties that employee will have to the public in the near future. Public bodies use the evaluations to determine if employees should be retained, promoted, or terminated. This reading of Section 7(1)(c) with regards to personnel evaluations is further supported by a colloquy on the floor of the Illinois Senate. During the discussion of Senate Bill 315, which exempts the evaluations of teachers, principals, and superintendents from disclosure under FOIA, chief sponsor Sen. Karen Lightford stated that evaluations for all other school employees remained subject to FOIA disclosure. Ill. S., *Debate on S.B. 315 on the Floor of the Senate*, 96th Leg., Reg. Sess. At 17 (Jan. 13, 2010). Sen. Lightford stated that exemptions for other school employees "will have to be addressed and dealt with in a different piece of legislation." *Id.*

Please note that this determination addresses only the applicability of Section 7(1)(c) regarding administrative and teaching assistant evaluations. Public bodies must seek preapproval from the Public Access Counselor for the use of the Section 7(1)(c) and Section 7(1)(f) only. Use of Section 7(1)(a) requires no preapproval from our office, and we decline to independently determine whether use of that exemption regarding teacher evaluations is appropriate in this case.

In accordance with this letter, the District may release the requested records to the requester. If you have any questions, please feel free to contact our office at 1-877-299-FOIA (1-877-299-3642). This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Amalia Rioja
Chief Deputy Public Access Counselor

cc: Maria Baran and George Pawlaczyk
Belleville News Democrat
120 South Illinois Street
Belleville, Illinois 62220-2130