



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

June 1, 2011

*Via Electronic Mail and U.S. Mail*  
Mr. Joshua A. Faucette  
Legal Fellow  
Office of the Governor  
100 W. Randolph, Suite 16-100  
Chicago, IL 60611

RE: FOIA Pre-Authorization Request - 2011 PAC 14364

Dear Mr. Faucette:

We have received and reviewed the written notice from the Office of the Governor of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010). Specifically, on May 11, 2011, Ms. Monique Garcia of the *Chicago Tribune* submitted a FOIA request for "all applications submitted by candidates seeking a spot on the Illinois Health Facilities and Services Review Board from Jan. 29, 2009 to May 11, 2011." In its written notice, the Governor's Office asserts that dates of birth, race, disability information, religious affiliation, and spousal information are exempt from disclosure under section 7(1)(c) of FOIA.

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." The exemption defines "unwarranted 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." 5 ILCS 140/7(1)(c) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

**DETERMINATION**

The Governor's Office's use of the exemption in section 7(1)(c) to redact dates of birth is **approved**. We have determined that the Governor's Office has met its initial burden of demonstrating that the disclosure of dates of birth would constitute a clearly unwarranted invasion of personal privacy. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this

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information. *See, e.g., Oliva v. United States*, 756 F. Supp. 105, 107 (E.D.N.Y. 1991) (holding that, under Exemption 6 of the Federal Freedom of Information Act (5 U.S.C. §552(b)(6)), "dates of birth[ ] are a private matter, particularly when coupled with \* \* \* other information" and "would constitute a clearly unwarranted invasion of personal privacy"); *Texas Comptroller of Public Accounts v. Attorney General of Texas*, \_\_\_ S.W.3d \_\_\_, 54 Tex. Sup. Ct. J. 245 (2010) (state employees have a "nontrivial privacy interest" in their dates of birth under the Texas Public Information Act (*see* Tex. Gov't Code §§552.101, 552.102), which substantially outweighs the negligible public interest in disclosure).

Further, the Governor's Office's use of section 7(1)(c) to redact references to the race, religion, and disability (if any) of individual applicants is **approved**. This office agrees that these types of identifying information are highly personal by their very nature and their release would be an unwarranted invasion of personal privacy.

Additionally, the Governor's Office use of section 7(1)(c) to withhold identifying information regarding the spouses of applicants is **approved**. After reviewing the materials provided, we agree that the release of this information would be an unwarranted invasion of personal privacy and the subjects' right to privacy outweighs any public interest in this information. Therefore, the Governor's Office has met its initial burden to withhold spousal identifying information under section 7(1)(c).

Accordingly, the Governor's Office may issue a partial denial letter and release the reports with the approved information redacted, if it has not already done so.

If you have any questions, please contact me at (312) 814-8413. This correspondence shall serve to close this matter.

Very truly yours,



REBECCA RIDDICK  
Assistant Attorney General  
Public Access Bureau

14364 pre-auth al 71c app inf dob sa

cc: Ms. Monique Garcia  
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