



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 28, 2011

Via Electronic Mail

Mr. David Elson
Superintendent, Freedom of Information Act Officer
Alton Community Unit School District No. 11
delson@altonschools.org

RE: FOIA Pre-Authorization Request – 2010 PAC 9870

Dear Mr. Elson:

We have received and reviewed the written notice from Alton Community Unit School District No. 11 (District) of its intention to deny disclosure of certain information pursuant to sections 7(1)(c) and 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c), (f) (West 2009 Supp.).

On July 18, 2010, [REDACTED] submitted a FOIA request to the District seeking records relating to the District's investigation, discipline and eventual dismissal of Mr. Bennett as the head basketball coach at Alton High School.

On August 2, 2010, the District submitted a Pre-Authorization Request to the Office of the Public Access Counselor and sought our approval to withhold the records responsive to the [REDACTED] request under section 7(1)(c) of FOIA, which 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."

The District also sought our approval to withhold other information contained in the records pursuant to section 7(1)(f) of FOIA, which exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated[.]"

Mr. David Elson
June 28, 2011
Page 2

This office initiated further inquiry on October 8, 2010. On October 21, 2010, the District supplied us with copies of the responsive records. Specifically, the responsive records include a letter from the Mr. Elson to [REDACTED], a letter submitted to the Alton Community School Board from [REDACTED], letters submitted by citizens with regard to [REDACTED] and emails and other internal memoranda between District personnel about a course of action to take with regard to [REDACTED] employment with the District. The District has supplied [REDACTED] with all correspondence between the District and [REDACTED]. Therefore, the District's request for approval is limited to the letters submitted by citizens about [REDACTED] and the District's internal correspondence with regard to [REDACTED] employment with the District.

Because the pre-authorization process under section 9.5(b) of FOIA (5 ILCS 140/9.5(b) (West 2009 Supp.)) is limited to reviewing the assertions of the section 7(1)(c) and section 7(1)(f) exemptions, we cannot consider the applicability of any other exemptions raised at this point.

DETERMINATIONS

The District's proposed use of sections 7(1)(c) and 7(1)(f) to withhold the records relating to the dismissal of [REDACTED] is **approved**.

Section 7(1)(c).

The District seeks to withhold letters submitted by parents and other citizens with regard to [REDACTED]. Our office has previously concluded that the right of privacy of the citizen seeking to report potential violations of law or policy, to offer suggestions for policy change or to express complaints outweighs the public interest in obtaining the information. *See* 2010 PAC 6546 (Ill Att'y Gen. PAC Pre-Auth al dl 6546, issued June 16, 2010). Similarly, we conclude that the citizens that submitted these letters to the District have a right of privacy and that disclosure of this information would be highly personal or objectionable to those citizens. As a result, we have concluded that the District may withhold these letters pursuant to section 7(1)(c).


Section 7(1)(f)

The District seeks to withhold emails and other internal memoranda between District personnel about [REDACTED] employment. Based on our review of the records, we have determined that the records contain opinions and recommendations by District personnel about a proposed course of action with regard to [REDACTED] employment with the District, and properly fall within the provisions of section 7(1)(f).

Mr. David Elson
June 28, 2011
Page 3

Accordingly, we conclude that the District has met its burden with regard to its use of the section 7(1)(c) and section 7(1)(f) exemptions and may withhold the remaining responsive records. If you have any questions, you may contact me at (312) 814-5383. This correspondence shall serve close this matter.

Very truly yours,


MATTHEW C. ROGINA
Assistant Attorney General
Public Access Bureau

9870 pre-auth al 71c 71f sd

cc: 