



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

August 24, 2011

*Via E-mail and U.S. Mail*  
Mr. Thomas Hardy  
Executive Director  
and Chief Records Officer  
Office for University Relations  
University of Illinois  
1737 West Polk Street, 414 AOB  
Chicago, Illinois 60612  
FOIA@uillinois.edu

RE: FOIA Pre-Authorization Request – 2011 PAC 16249

Dear Mr. Hardy:

We have received and reviewed the written notice from the University of Illinois (University) of its intention, pursuant to section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010), as amended by Public Acts 97-333, effective August 12, 2011; 97-385, effective August 15, 2011.) to deny disclosure of certain records related to the University's search for a new chancellor. On August 4, 2011, Mr. Paul Wood of the *Champaign News-Gazette* submitted a FOIA request to the University seeking copies of "financial records pertaining to the search for a new chancellor that resulted in the hiring of Phyllis Wise." Mr. Wood and the University agreed to limit the time frame for the responsive records to December 1, 2010, through August 1, 2011.

In its written notice, the University confirmed that it would release documents containing the "identity of the successful job applicant and the identities of airports and flight numbers utilized by job applicants in their pursuit of employment at the University". However, the University sought pre-authorization to deny disclosure of the following information pursuant to section 7(1)(c) of FOIA:

[T]he names and personal identifiers of candidates/job applicants for the position of vice president/chancellor of the Urbana-Champaign campus; personal identifiers contained in travel and

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lodging documents (e.g., reservation and/or ticket numbers, etc.) that would be used by the media to identify a job applicant and invade his or her privacy by publicizing the information, and the identities of applicants' spouses and/or assistants.

### **DETERMINATIONS**

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." Section 7(1)(c) also provides that "[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."

#### **Names of Unsuccessful Applicants**

The University's assertion of the section 7(1)(c) exemption with regard to the names of unsuccessful applicants for the position of vice president/chancellor is **approved**. We previously addressed this issue in 2010 PAC 6805 (Ill. Att'y Gen. PAC Pre-Auth. al6805, issued April 21, 2010) and determined that the fact that an individual is seeking new employment and has applied for a position is information that a reasonable person would view as highly personal. Moreover, the release of that information would be viewed as objectionable by a reasonable person. The disclosure of an unsuccessful applicant's name could negatively impact that individual's current employment and a public body's ability to attract qualified applicants for open positions. Thus, the unsuccessful applicants' right to privacy with respect to their names outweighs any legitimate public interest in disclosure, which would constitute a clearly unwarranted invasion of the unsuccessful applicants' personal privacy under section 7(1)(c) of FOIA.

#### **"Personal Identifiers" of Unsuccessful Applicants**

In a telephone conversation today, you confirmed that "personal identifiers" of unsuccessful applicants includes information such as the unsuccessful applicants' "addresses" and "phone numbers". As we discussed, home addresses and home or personal telephone numbers are private information as defined in section 2(c-5) of FOIA (5 ILCS 140/2(c-5) (West 2010)). Private information is exempt from disclosure under section 7(1)(b) of FOIA (5 ILCS 140/7(1)(b)), the use of which does not require preapproval from this office.

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To the extent that "personal identifiers" consists of the addresses or telephone numbers of the unsuccessful applicants' employers, the University's assertion of the section 7(1)(c) exemption with regard to this information is **approved**. In 2010 PAC 8971 and 9114, (Ill. Att'y Gen. PAC Req. Rev. Ltr. 8971, issued November 17, 2010, and Ill. Att'y Gen. PAC Req. Rev. Ltr. 9114, issued November 17, 2010) this office determined that the names of employers of unsuccessful applicants for the position of University president were exempt from disclosure under section 7(1)(c). As the University asserted in those matters, the final candidates were highly qualified and experienced individuals who held senior administrative positions at other colleges and universities, and disclosure of the names of employers could adversely impact those employers. This office concluded that considering the type of applicants for the position of University president and the fact that they were not hired, there existed no legitimate public interest in disclosure of the names of the unsuccessful applicants' employers.

In this case, the unsuccessful applicants for the position of vice president/chancellor are similarly qualified and experienced individuals. Disclosure of the addresses or telephone numbers of these applicants' employers could directly identify the applicants in much the same way as would disclosure of the names of the employers. As previously discussed, disclosure of this type of information would be objectionable to a reasonable person, as publication of this information could adversely impact both the employers and the employment of the unsuccessful applicants. Moreover, because of the type of candidates who are being considered for this position and the fact that they were not hired, there exists no legitimate public interest in disclosure of the names of the unsuccessful applicants' employers. Thus, disclosure of this information would constitute a clearly unwarranted invasion of the personal privacy of the unsuccessful applicants.

Please note that our office is unable to grant blanket use of the section 7(1)(c) exemption for such broadly defined categories as "personal identifiers". As such, our determinations here apply only to those "personal identifiers" that you specifically identified by telephone or in your written notice to this office.

### **Reservation or Ticket Numbers**

The University's assertion of the section 7(1)(c) exemption with regard to reservation or ticket numbers for only the unsuccessful applicants is **approved**. In 2010 PAC 8971 and 9114 (*see Id., supra*), this office denied use of the section 7(1)(c) exemption for travel information used by the unsuccessful applicants, such as the names of the departing airports, the date of flight, and the flight number. We determined that this information could not be characterized as highly personal in nature simply because a diligent reporter could effectively piece together information obtained through FOIA and from sources outside of FOIA in order to draw a reasoned inference based on available facts. We also determined that in any event, the

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public has a legitimate interest in this type of travel information for comparing material differences in airfare and other charges.

However, in this case, we conclude that a reservation or ticket number is highly personal information. These numbers are directly linked to the applicants holding the reservations or tickets, and disclosure of this information would quickly identify those applicants. Thus, the unsuccessful applicants' right to privacy with respect to this information outweighs any legitimate public interest in disclosure of the information, as the information does not impact the price of airfare or other charges. As such, disclosure would constitute a clearly unwarranted invasion of the applicants' personal privacy under section 7(1)(c) of FOIA.


#### **Identities of Applicants' Spouses or Assistants**

The University made no distinction in its written notice between the identities of the spouses or assistants of the successful applicant and those of the unsuccessful applicants. For the information involving the successful applicant, the University's assertion of the section 7(1)(c) exemption is **denied**. The University has not established how this information is highly personal, and how the successful applicant's right to privacy with respect to this information outweighs the public's legitimate interest in its disclosure.

For the information involving the unsuccessful applicants, the University's assertion of the section 7(1)(c) exemption is **approved**. This information is highly personal, as its disclosure would quickly reveal the identities of the unsuccessful applicants. Moreover, the unsuccessful applicants' right to privacy with respect to this information outweighs any legitimate public interest in disclosure of the identities of the applicants' spouses or assistants.

Should you have any questions or concerns, please contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Very truly yours,

  
SARA GADUELA GALLAGHER  
Assistant Attorney General  
Public Access Bureau

cc: Mr. Paul Wood  
*Champaign News-Gazette*  
pwood@news-gazette.com