



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

Lisa Madigan
ATTORNEY GENERAL

August 2, 2010

Mr. Matt Vanover
Director of Public Relations
Illinois State Board of Education
199 North First Street
Springfield, Illinois 62777-0001

RE: FOIA Pre-Authorization Request – 2010 PAC 6410

Dear Mr. Vanover:

We have reviewed the documents that our Office received on June 16, 2010 with respect to your intention to deny disclosure of specific information under Section 7(1)(c) of the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et. seq.*, as amended.

Specifically, on March 15, 2010, [REDACTED] submitted a FOIA request to the Illinois State Board of Education (ISBE) seeking the following information relating to [REDACTED]

1. List of all certificates and dates of issuance for [REDACTED];
2. List of all certificate endorsements and dates of issuances;
3. List of current pending endorsements and dates of applications;
4. List of all current pending endorsements and dates of applications;
5. Copies of applications for issued, pending or rejected certificates;
6. Copies of applications for issued, pending or rejected endorsement and
7. Any deficiency letters covering missing requirements for certificate and endorsement applications.

On March 23, 2010, the District submitted a pre-authorization request to our Office, asserting that the pending certificates, endorsements, applications for pending certificates and endorsements, deficiency letters, answers to questions contained in the entitlement certificate, administrative certificate and endorsement evaluation and the date of birth of [REDACTED] are exempt from disclosure 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 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.*

Because these documents are pending, ISBE argues that the certificates, endorsements, applications for certificates and endorsements and deficiency letters do not bear on Ms. [REDACTED]'s public duties and are exempt from disclosure under Section 7(1)(c). Further, ISBE argues that the answers to the questions contained in the entitlement certificate, administrative certificate and endorsement evaluation amount to an invasion of privacy under Section 7(1)(c). Specifically, ISBE argues that the answers to the following questions are exempt from disclosure:

1. Have you ever had a certificate denied, suspended or revoked in IL or another state?
2. Have you ever been convicted of a felony, or any sex, narcotics or drug offense in Illinois or any other state?
3. Have you failed to file a tax return with the Illinois Department of Revenue, or failed to pay any tax, penalty or interest owed or any final assessment of same for any tax as required by law administered by that Department that was not subsequently resolved to the Department's satisfaction?
4. Have you ever been named by a state agency responsible for child welfare as a perpetrator in an indicated report of child abuse or neglect if such report was not reversed after exhaustion of such appeal?
5. Are you in default on an Illinois student loan for which you failed to establish a satisfactory repayment plan with the Illinois Student Assistance Commission?
6. I certify, under penalty of perjury that I do not have a child support order, or that I am not more than 30 days delinquent in complying with a child support order. I understand that I must sign this statement, whether or not I have children and failure to so certify may result in disciplinary action and making a false statement may subject me to contempt of court.

Determinations

ISBE's request for approval of its decision to withhold information pursuant to Section 7(1)(c) is approved in part and denied in part.

As to the proposed Section 7(1)(c) redactions, our Office finds the following:

1. ISBE's intention to withhold all pending certificates, endorsements, applications for pending certificates and endorsements and deficiency letters is denied.
2. ISBE's intention to withhold answers to the questions contained in the entitlement certificate, administrative certificate and endorsement evaluation is denied.
3. ISBE's intention to withhold the date of birth for Ms. [REDACTED] is approved.

With respect to the pending certificates, pending endorsements, pending applications for certificates and endorsements and deficiency letters, nothing suggests that any of these documents contain information that could constitute an unwarranted invasion of personal privacy. On the contrary, the documents relate to Ms. [REDACTED]'s professional qualifications and could be said to bear on Ms. [REDACTED]'s duties as a public employee. The fact that these documents are pending does not create a privacy issue under Section 7(1)(c). As a school district

administrator, Ms. [REDACTED] holds a significant position in the local public school district. Based on her position, the public has a legitimate interest in knowing her qualifications and the scope of her responsibilities.

With respect to the answers to the questions contained in the entitlement certificate, administrative certificate and endorsement evaluation, the public has a legitimate interest in knowing the answers that a teacher or prospective teacher has supplied to ISBE to questions about a possible criminal record, child abuse, tax fraud, past due child support, loan defaults and license suspensions. In this instance, based on Ms. [REDACTED]'s position with the school district, the public's interest in obtaining this information outweighs the privacy right of Ms. [REDACTED].

ISBE may redact Ms. [REDACTED]'s date of birth. Depending on the circumstance, dates of birth can be considered personal information. Such disclosure could constitute an unwarranted invasion of personal privacy that outweighs any legitimate interest in the public obtaining the information.

Based on this analysis, ISBE has not met its burden under Section 7(1)(c) and should release the documents specified above but may redact the date of birth. This correspondence shall serve to close this matter. If you have any questions, please contact me at (312) 814-5383.

Sincerely,

Cara Smith
Public Access Counselor

By:

[REDACTED]
Matthew C. Rogina
Assistant Public Access Counselor

cc:

[REDACTED]