



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

Lisa Madigan
ATTORNEY GENERAL

August 5, 2010

Dawn M. Hinkle
Canna and Canna, Ltd.
10703 W. 159th Street
Orland Park, Illinois 60467-4531

Re: Pre-Authorization Request – 2010 PAC 7799

Dear Ms. Hinkle:

Thank you for providing the additional information we requested on June 14, 2010 in response to a written notice from the Schiller Park School District No. 81 (District) of its intention to deny certain information as exempt from disclosure under Sections 7(1)(c) and 7(1)(f) of the Freedom of Information Act. 5 ILCS 140/1 *et seq.*, as amended (FOIA).

Pursuant to Section 9.5(b) of FOIA (5 ILCS 140/9.5(b)), we asked that the District provide unredacted copies of the responsive documents sought by [REDACTED] on May 19, 2010, which it intends to withhold from disclosure in whole or in part.

Section 7(1)(c) of FOIA permits a public body to withhold “[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” That provision further defines an “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.” However, Section 7(1)(c) further states that the “disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.” 5 ILCS 140/7(1)(c).

Section 7(1)(f) of FOIA exempts from disclosure records that constitute “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record shall not be exempt when the record is publicly cited and identified by the head of the public body.” 5 ILCS 140/7(1)(f).

Determination

FOIA Request #2

The District's proposed use of the exemption found in Section 7(1)(c) of FOIA to deny disclosure of an email, which discusses a relative's death, and of an email, in part, which discloses medical information, is approved. After reviewing these documents, we have determined that this information is highly personal and the subjects' right to privacy outweighs any legitimate public interest in obtaining the information.

The District's proposed use of the exemption found in Section 7(1)(f) of FOIA to deny disclosure of an email, in whole, which describes a proposed program change is approved. We have reviewed this document and determined that it contains opinions and recommendations relating to the proposed program change. In addition, the District asserts that this document has not been publicly cited by the head of the District. Therefore, this information is exempt from disclosure under Section 7(1)(f) of FOIA.

Accordingly, the District's issuance of a partial denial letter was appropriate.

FOIA Request #4

The District's proposed use of the exemption found in Section 7(1)(c) of FOIA to deny disclosure of portions of a resignation agreement and release is denied. The District seeks to redact information that "...discloses the identity of the individual at issue and refers to the circumstance of the resignation." The agreement does not contain any information that would be considered highly personal. Rather, the terms of the agreement address various aspects of the individual's role as a public employee, state the conditions under which the working relationship with the District was terminated and impose restrictions on the nature of the individual's post-employment relationship with the District. Because the terms of the agreement relate solely to the "public duties of a public employee," the District has failed to meet its burden of demonstrating that the disclosure of the agreement, in whole, would constitute a "clearly unwarranted invasion of personal privacy" under Section 7(1)(c).

Accordingly, unless the District properly asserts an exemption other than Section 7(1)(c) to deny disclosure, it should provide an unredacted copy of the resignation agreement and release to [REDACTED]

FOIA Request #5

The District's proposed use of the exemption found in Section 7(1)(f) to deny disclosure of an email discussing proposed guidelines for IEP meetings is approved. We have reviewed this document and have determined that it contains recommendations relating to these proposed changes. In addition, the District asserts that this document has not been publicly cited by the head of the District. Therefore, this information is exempt from disclosure under Section 7(1)(f) of FOIA.

The District's proposed use of the exemption found in Section 7(1)(c) to deny disclosure of an email, in part, which discusses personal medical and family information is approved. We have

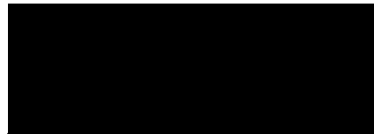
determined that this information is highly personal and the subjects' right to privacy outweighs any legitimate public interest in obtaining the information.

Accordingly, the District's issuance of a partial denial letter was appropriate.

If you have any questions, please feel free to contact me at (312) 814-1003. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor



Jessica O'Leary
Assistant Attorney General

cc:

