



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 23, 2010

Ms. Melanie Scherer
FOIA Officer
College of Lake College
19351 West Washington Street
Grayslake, Illinois 60030-1198

RE: FOIA Pre-Authorization Request – 2010 PAC 7800

Dear Ms. Scherer:

We have received and reviewed the written notice from the College of Lake County of its intent to deny disclosure of specific information pursuant to Section 7(1)(c) and Section 7(1)(f) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et. seq.*, as amended.

Specifically on May 20, 2010 [REDACTED] submitted a FOIA request to the College seeking copies of the following documents pertaining to the College's hiring process for the Coordinator of Veterans and Military Personnel Student Services position:

1. Applications for Employment conducted by any applicant that made it through the first screening process;
2. Equal Employment Surveys completed by any applicant that made it through the first screening process;
3. Resumes submitted by any applicant that made it through the first screening process;
4. Interview questions for all levels of the interview process;
5. Responses of the applicants to the interview questions, and
6. Notes, statements and e-mails by the Hiring Committee and Human Resources regarding the hiring process

In its June 4, 2010 pre-authorization letter to our Office, the College sought to withhold these documents as exempt from disclosure under Section 7(1)(c) and Section 7(1)(f) of FOIA. Specifically, the College stated that out of 66 applicants, 41 were selected for the College's candidate pool, seven applicants received a first interview and three applicants (including [REDACTED]) received a second interview.

In its written notice, the College states that the following information is withheld under Section 7(1)(c):

1. The applications for employment submitted by the 41 applicants selected for the College's candidate pool for the CVMPSS position.
2. The resumes submitted by the 41 applicants selected for the College's candidate pool for the CVMPSS position.
3. The Equal Employment Survey completed by 40 of the 41 applicants selected for the College's candidate pool for the CVMPSS position.
4. The names of applicants contained in 11 e-mails.

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 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.*

In the same notice, the College further states that the following information may be withheld under Section 7(1)(f):

1. Interview questions developed by the Hiring Committee for use during interviews for the CVMPSS position.
2. Summary notes prepared by the Hiring Committee following the second interviews of the three applicants for the CVMPSS position.
3. The Interview Rating Sheets completed by the Hiring Committee for seven applicants for the CVMPSS position, which rate the applicants on technical ability, training, attitude, ability to communicate and overall, include the interviewer's comments and whether the interview recommends the candidate for hire.
4. A chart prepared by the Hiring Committee listing the strengths, weaknesses and Word/Excel/Power point results from seven applicants for the CVMPSS positions.
5. E-mails between members of the CVMPSS Hiring Committee and Human Resources regarding proposed applicants. Specifically, the e-mails detail the following exchanges:
 - a. E-mail dated 12/10/09 between members of the CVMPSS Hiring Committee and Human Resources re: request to schedule candidate interviews
 - b. E-mail dates 1/6/10 between members of the Hiring Committee and Human Resources with attached schedule of interviews
 - c. E-mail chain dated 1/8/10 between members of the Hiring Committee and Human Resources re: invitation to interview two applicants
 - d. Schedule of interviews for the CVMPSS position on 1/6/10, 1/8/10, 1/29/10 and 1/20/10;
 - e. Schedule of additional interviews for the CVMPSS position on 1/19/10 and 1/20/10;
 - f. E-mail dated 2/3/10 between members of the Hiring Committee and Human Resources re: scheduling second interviews for the CVMPSS position;
 - g. Schedule of second interviews for the CVMPSS position on 2/5/10 and 2/9/10
 - h. E-mail dated 2/25/10 between members of the Hiring Committee and Human Resources re: request for reference check one of the applicants

- i. E-mail dated 3/8/10 between members of the Hiring Committee and Human Resources re: reference check results and recommendation to extend an offer of employment to one of the applicants.

Section 7(1)(f) exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies are formulated, except that a specific record or relevant portion of a 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).

Determinations

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

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

1. The College's intention to withhold the applications for employment submitted by the 41 applicants that made it through the first screening process is approved.
2. The College's intention to withhold resumes by any applicant that made it through the first screening process is approved.
3. The College's intention to withhold the Equal Employment Survey completed by any applicant that made it through the first screening process is approved.
4. The College's intention to withhold the names of the applicants furnished in the e-mails is approved.

With respect to the names of job applicants furnished in applications for employment, resumes, the Equal Employment Survey and e-mail correspondence, our Office relies on 2010 PAC 5602, a previously issued pre-authorization request and finds that the right to privacy of Department of Law applicants who were not hired by the City outweighs the public's legitimate interest in knowing the names of the applicants. In applying Section 7(1)(c), we note that disclosure of this information not only adversely impacts the applicant's ability to retain or secure employment but also hampers the College's ability to attract qualified applicants.

Despite our finding as to the unsuccessful applicants, it is our determination that the College should disclose the employment application and resume of the applicant who was offered and accepted the CVMPSS position. Language in Section 7(1)(c) states that the disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of privacy. Resumes and employment application have a bearing on the public duties of public employees and officials and do not amount to an invasion of privacy under Section 7(1)(c). With regard to the Equal Employment Survey, the College should release this document but may redact the information pertaining to the individual's race as the race of a public employee falls within the scope of Section 7(1)(c). *See CBS v. Partee*, 198 Ill.App.3d 936, 948 (1st Dist. 1990).

We also find that the employment application, resume and Equal Employment Survey of [REDACTED] is not protected under Section 7(1)(c). In its June 4 letter, the College stated that [REDACTED] was one of the three applicants who made it to the second round of interviews. Under

Section (7)(1)(c), the release of [REDACTED]'s own information to him does not constitute an unwarranted invasion of his personal privacy.

With regard to the proposed 7(1)(f) redactions, our Office finds the following:

1. The College's intention to withhold interview questions developed by the Hiring Committee for use during interviews for the CVMPS position is approved.
2. The College's intention to withhold summary notes prepared by the Hiring Committee following the second interviews of applicants for the CVMPS position is approved.
3. The College's intention to withhold the interview Rating Sheets completed by the Hiring Committee for seven applicants for the CVMPS position, which rate the applicants on technical ability, training, attitude, ability to communicate and overall, include the interviewer's comments and whether the interview recommends the candidate for hire is approved.
4. The College's intention to withhold a chart prepared by the Hiring Committee listing the strengths, weaknesses and Word/Excel/Power point results from the seven applicants for the CVMPS position is approved.
5. The College's intention to withhold e-mails between members of the CVMPS Hiring Committee and Human Resources regarding proposed applicants is approved in part and denied in part.

With respect to (1) interview questions developed by the Hiring Committee, (2) the summary notes prepared by the Hiring Committee following the second interviews of applicants, (3) the interview rating sheet completed by the Hiring Committee, and (4) a chart prepared by the Hiring Committee listing the strengths, weaknesses and Word/Excel/Power point results from the seven applicants, our Office has concluded based on the specific facts that this information reflects the preliminary decisions of the College regarding the prospective applicants and falls within the scope of Section 7(1)(f).

With regard to the e-mails, we find that Items 5a, 5c, 5f, 5h and 5i also fall within the scope of 7(1)(f). These e-mails deal with letters of reference, a recommendation of an offer of employment to one of the applicants and a suggestion to include a potential candidate into the pool of applicants. The e-mails express opinions by College personnel about particular applicants and fall within the scope of Section 7(1)(f).

The e-mails that contain the actual interview schedules cannot be said to be preliminary in nature or documents in which an opinion is expressed or policies or actions are formulated. Thus, based on these specific facts, these e-mails fall outside the scope of Section 7(1)(f). Please note that this determination is related to the interview schedule itself. Any correspondence between College personnel that about the interview schedule falls within the scope of Section 7(1)(f).

Additionally, the College may redact the names of the unsuccessful applicants contained in the interview schedule pursuant to the Section 7(1)(c) analysis discussed above.

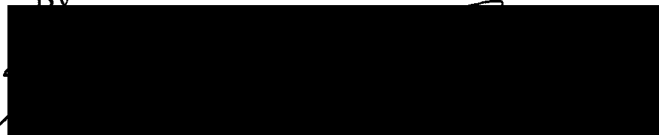
Based on this analysis, the College should release the documents specified above and may withhold the remaining documents.

If you have any questions or concerns, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

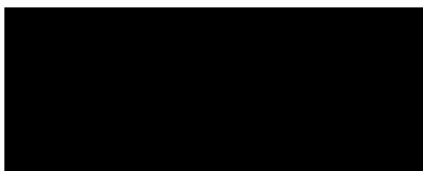
Cara Smith
Public Access Counselor

By:

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Matthew C. Rogina
Assistant Public Access Counselor

CC:

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