

Access, Public

From: Access, Public
Sent: Thursday, June 17, 2010 4:17 PM
To: 'kennethbutterly@sbcglobal.net'
Subject: RE:
Attachments: 7965 FOIA PAR Maine East.Butterfly.docx

Please see attached.



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 17, 2010

Ms. Lynn Glickman
FOIA Officer
Maine East High School District 63
10150 Dee Road
Des Plaines, Illinois 60016

RE: FOIA Pre-Authorization Request – 2010 PAC 7965

Dear Ms. Glickman:

We have received and reviewed the written notice from Maine East High School (MEHS) of its intent to withhold certain information as exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et. seq.*, as amended.

Specifically, on May 27, 2010 [REDACTED] submitted a FOIA request to MEHS seeking copies of the following documents:

1. The total number of candidates who applied for the position of Superintendent between 01/01/2009 and 6/30/2009
2. Names and resumes of final four candidates.

On June 14, 2010, MEHS sent a denial letter to [REDACTED] explaining that while they disclosed to him the resume and name of the applicant who was hired for the superintendent position, the names and resumes of the remaining four candidates who were not hired should be withheld pursuant to Section 7(1)(c), 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.*

On June 14, 2010, MESHHS submitted a pre-authorization request to our Office, asserting that the names and resumes of the unsuccessful candidates are exempt under Section (7)(1)(c) of FOIA.

Determinations

MSE's request for approval of its decision to withhold the names and resumes of the four unsuccessful candidates for superintendents pursuant to Section 7(1)(c) is approved.

With respect to the names of the four candidates who were considered for the position of superintendent, our Office has determined that disclosure of these names falls within the scope of Section 7(1)(c). In applying 7(1)(c), a fact-based balancing test is required to determine if the individual's right to privacy outweighs the legitimate public interest in obtaining the information.

In 2010 PAC 5602, a previously-issued pre-authorization request from our Office, we found that the City of Chicago properly applied Section 7(1)(c) to withhold the names of applicants in the Department of Law hiring pool who had not been hired by the City.

In approving the City's use of Section 7(1)(c), our Office concluded that the right to privacy of Department of Law applicants who had not been hired by the City outweighed the public's legitimate interest in knowing the names of the applicants. In applying Section 7(1)(c), we noted that disclosure of this information not only adversely impacts the applicant's ability to retain or secure employment, but also hampers the City's ability to attract qualified candidates. In keeping with our analysis of the City's request, it is our determination that MEHS properly applied Section 7(1)(c) to the facts of this request.

Based on this analysis, the City may withhold the names and resumes of the four unsuccessful candidates. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Matthew C. Rogina
Assistant Public Access Counselor

cc:

