



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 6, 2010

Pat Stejskal
FOIA Officer
McHenry County College
8900 U.S Highway 14
Crystal Lake, Illinois 60012

RE: FOIA Request for Review – 2010 PAC 8559

Dear Mr. Stejskal:

We have received and reviewed the written notice from McHenry County College (College) of its intention to withhold certain information as exempt from disclosure under 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 June 22, 2010, Brett Rowland, on behalf of the Northwest Herald, submitted a FOIA request to the College seeking copies of the following documents:

1. All written communication, both paper and electronic, of the Board's Presidential Search Committee,
2. All written communication since June 1, 2010, both paper and electronic, among trustees and administrative staff regarding the search for a new college president and
3. All application materials submitted by the three finalists.

The College responded to Item 3 of Mr. Rowland's request on July 6, 2010 with the resumes and the educational philosophy statement of the three final candidates. The College also responded to a portion of Item 1 in Mr. Rowland's request by providing him with correspondence that it does not assert is exempt from disclosure pursuant to Section 7(1)(c) and Section 7(1)(f).

In its July 19, 2010 written notice to this Office, the College states that it seeks to withhold the following information under Section 7(1)(c):

1. An e-mail chain transmitting the text and letter submitted by a community member expressing their disappointment in the three finalists for the position of president and
2. An e-mail chain with the last communication from a community member denouncing the name of one of the finalists.

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

1. Draft notes from Committee meetings on December 17, 2009, March 9 and April 21, 2010 which include opinions, discussions and recommendations about the presidential search and prospective candidates, prior to the identification of three finalists,
2. An e-mail chain from January 2010 recommending changes to the President Position Profile draft and a supplemental rationale of the draft,
3. An e-mail chain with a recommendation and opinion as to why a certain candidate should be a finalist,
4. An e-mail chain discussing and opining about the information contained within the campus/community feedback forms and the three finalists,
5. E-mail from April 14, 2010 discussing the strategy for Committee interviews of various candidates and the identification of a candidate who was not one of the three finalists,
6. An e-mail chain with the last communication dated May 8, 2010 with a recommendation and opinion as to why certain candidates should be finalists,
7. An e-mail chain with the last communication on or around January 18, 2010 with the recommendation for handling alleged public communication about which candidate would receive the position,
8. E-mail dated May 9, 2010 with an opinion about sharing the names of semi-finalists with certain individuals,
9. E-mail dated May 9, 2010 regarding reference checks,
10. An e-mail chain with the last e-mail dated May 17, 2010 expressing opinions about the search committee process and the handling of the media communications,
11. E-mail dated June 2, 2010 providing the draft of a media release regarding a new president for review and approval before issuance,
12. E-mail dated June 2, 2010 containing opinions about two finalists for the new president,
13. E-mail dated March 5, 2010 discussing strategy for the March 9, 2010 committee meeting,
14. An e-mail chain with the last e-mail dated May 12, 2010 expressing opinions about which Committee members should attend the open forum and why,
15. An e-mail chain dated May 12, 2010 expressing opinions about which Committee members should author a memorandum to be shared with the campus and foundation,
16. E-mail dated May 28, 2010 discussing review of campus and community feedback forums,
17. E-mail dated May 18, 2010 discussing the first session with one of the finalists,
18. E-mail dated May 30, 2010 discussing strategy for semi-finalist interviews, including an attachment regarding suggestions for candidate interviews,
19. E-mail dated March 19, 2010 discussing a revised Committee work plan and transmitting a revised work plan,
20. E-mail dated February 1, 2010 concerning the need for one administrator to step down from his committee and his recommendation as to who should be selected to replace him,
21. An e-mail chain dated March 19, 2010 with proposed revisions to work plans,

22. An e-mail chain between two members of the Committee with the last communication dated May 13, 2010 expressing opinions about the search committee process and handling media communications,
23. E-mail dated May 10, 2010 expressing opinions about the search process and one candidate for the position,
24. E-mail dated May 21, 2010 with one Committee member's opinions concerning ranking the candidates,
25. E-mail from May 2010 discussing strategy for campus visits, and
26. An e-mail chain ending June 30, 2010 between two Board members opining about information to be shared with the final candidate during contract negotiations

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.*

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) and Section 7(1)(f) is approved.

As to the proposed Section 7(1)(c) redactions, this Office concludes that the names of private citizens who contacted the College to comment regarding the three finalists, based on the specific facts present here, may properly be withheld. Based on the facts presented here, any public interest in learning the names of private citizens who contacted the College to express opinions about the finalists for the position of president would clearly be outweighed by the citizens' interest in privacy.

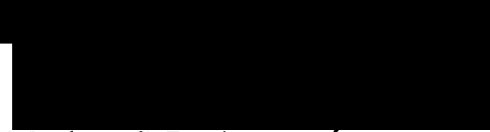
With regard to the proposed 7(1)(f) redactions, this Office finds that Items 1-26 fall within the scope of Section 7(1)(f). The e-mails are preliminary in nature and contain recommendations and opinions by College personnel regarding the search for a new president and other policy matters.

Based on this analysis, the College has met its burden under Section 7(1)(c) and Section 7(1)(f) and may withhold the documents.

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

Sincerely,

Cara Smith
Public Access Counselor



Matthew C. Rogina
Assistant Public Access Counselor

cc: Brett Rowland
Northwest Herald
browland@nwherald.net