



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 27, 2010

Ms. Merry C. Rhoades
Tueth, Keeney, Cooper, Mohan & Jackstadt, P.C.
101 W. Vandalia, Suite 210
Edwardsville, Illinois 62052

RE: FOIA Pre-Authorization Request – 2010 PAC 8517

Dear Ms Rhoades:

We have reviewed the documents that our Office received on August 12, 2010 with respect to your notice of intention 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 11, 2010, [REDACTED] submitted a FOIA request to the District seeking copies of the following documents:

1. All emails between Ms. Suzette Lambert and members of the Signal Hill School District #181 Board of Education during the period beginning January 1, 2009 through the date of his correspondence.
2. All emails between Ms. Suzette Lambert and Ms. Carol Peebles during the period beginning January 1, 2009 through the date of this correspondence.

On May 26, 2010, the District asked [REDACTED] to narrow the scope of his request. [REDACTED] responded on June 30, 2010 and while not narrowing the scope of his request, agreed to extend the deadline to July 15, 2010.

On July 15, 2010, the District sent a notice of intent to deny to our Office and stated that the e-mails are exempt from disclosure under 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.*

The District also asserts that several internal correspondence are exempt from disclosure pursuant to Section 7(1)(f), which 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).

On July 29, 2010, this Office initiated further inquiry into this matter and requested that the District provide us with a representative sample of the e-mails relating to [REDACTED] May 11, 2010 request and a detailed explanation as to why the documents are exempt from disclosure under Section 7(1)(c) and Section 7(1)(f). On August 12, 2010, the District supplied us with more than 350 pages of correspondence related to [REDACTED] request.

In its letter, the District asserts that the following documents may be withheld pursuant to Section 7(1)(c):

1. A May 25, 2009 e-mail regarding the personal travel information for a board member,
2. A May 28, 2009 e-mail regarding the health and personal travel plans of a District employee,
3. A June 1, 2009 e-mail from a company with directions for the District on how to access secure e-mail communications,
4. A June 1, 2009 e-mail chain that contains information regarding a former employee's unemployment claim,
5. A June 2, 2009 e-mail regarding the health condition of a District employee's relative,
6. A June 17, 2009 e-mail exchange regarding an employee's remaining vacation, leave days and daily rate of pay,
7. E-mail chains dated June 29 and July 5, 2009 regarding prospective applicants for the bookkeeping and administrative secretary position,
8. An August 2, 2009 e-mail regarding medical appointments of a board member's family,
9. An August 10, 2009 e-mail regarding a board member's health,
10. E-mail chains dated August 17, 21, 24 and 27, 2009 regarding prospective applicants for the bookkeeping and administrative secretary position,
11. A September 18, 2009 e-mail that contains the draft of an administrative procedure,
12. A September 29, 2009 e-mail that contains log-in information to a password protected site,
13. A September 29, 2009 e-mail exchange regarding a board member's daughter's wedding,
14. A September 30, 2009 e-mail that contains a preliminary policy draft,
15. An October 5, 2009 e-mail that discusses employee misconduct and a possible course of action with regard to the misconduct,
16. A October 16, 2009 e-mail that contains student record information and personal information regarding the discipline of a student,
17. A October 21, 2009 e-mail regarding hotel reservations for a board member,

18. E-mails dated October 23 and 25, 2009 e-mail exchange regarding an employee's relative's health,
19. A November 16, 2009 e-mail regarding a board member's name change,
20. A January 14, 2010 e-mail regarding personal travel plans for a District employee,
21. A January 26, 2010 e-mail chain regarding the health condition of a board member's relative,
22. A February 16, 2010, e-mail that contains a district tax exempt id number,
23. A February 16, 2010 e-mail that contains a product purchase reference number,
24. A February 23, 2010 e-mail that contains preliminary financial projections regarding the school's upcoming auction,
25. A February 24, 2010 e-mail chain regarding the budget,
26. A February 25 and 26, 2010 e-mail regarding proposed recommendations for the District's summer program,
27. A March 3, 2010 e-mail that contains information about purchases made at a school auction,
28. E-mails dated March 4, 12 and 13, 2010 regarding a board member's family member's death,
29. A March 4, 2010 e-mail that regarding a board member's son,
30. A March 14, 2010 e-mail regarding a funeral for the board member's relative,
31. A March 24, 2010 e-mail that contains a confidential password, and
32. A March 24, 2010, e-mail that makes a recommendation of changes and corrections to a preliminary draft.

In asserting the Section 7(1)(f) exemption, the District seeks to withhold from disclosure copies of the following documents:

1. A June 15, 2009 e-mail chain that contains a preliminary draft and recommendations to that draft,
2. A July 13, 2009 e-mail exchange that contains notes for the proposed policy agenda,
3. A July 29, 2009 e-mail that contains information about the Superintendent's absence from work,
4. A July 31, 2010 e-mail that suggests a meeting time change,
5. An August 3 and 4, 2009 e-mail that regarding the personal appointments of a board member,
6. An August 4, 2009 e-mail that contains the suggestion by an employee about a meeting,
7. E-mail chains dated August 13 and 24, 2009 regarding prospective applicants for the bookkeeping and administrative secretary position,
8. An August 14, 2009 e-mail that contains the draft of a preliminary application grant,
9. E-mail chains dated August 21 and 27, 2009 regarding the preliminary recommendations for bookkeeping and administrative secretary positions,
10. An August 27, 2009 e-mail that contains a correction to preliminary draft of meeting minutes,
11. An August 27, 2009 e-mail chain that contains corrections to a preliminary draft of a job description,
12. An August 28, 2009 e-mail that discusses a possible course of action with regard to a health insurance option,

13. An August 28, 2009 e-mail chain that contains corrections to a preliminary draft of a job description,
14. A September 11, 2009 e-mail chain that discusses the personal relationship of a District employee,
15. A September 17, 2009 e-mail that contains suggestions about the band room,
16. A September 18, 2009 e-mail that contains the draft of the Board of Education policy manual and subsequent discussions,
17. A September 18, 2009 e-mail chain that discusses a preliminary draft regarding the District's on-line policy manual,
18. A September 18, 2009 e-mail that contains a preliminary draft letter for review,
19. A September 18, 2009 e-mail that contains a preliminary draft letter to the community,
20. A September 19, 2009 e-mail that contains preliminary discussions regarding use of a paperless systems,
21. A September 29, 2009 e-mail regarding a board member's daughter's wedding,
22. An October 6, 2009 e-mail that contains a preliminary draft of minutes from committee meetings,
23. An October 7, 2009 e-mail that contains a preliminary draft to proposed changes in meeting minutes,
24. E-mails dated October 7, 13, 19, 21 and 23 2009 that contains the preliminary draft of meeting minutes,
25. An October 23, 2009 e-mail regarding personal information about an employee's family member,
26. A November 3 and 4, 2009 e-mail chain that contains information about a change in meeting time,
27. A November 16, 2009 e-mail chain that contains information about an upcoming meeting,
28. A December 20, 2009 e-mail that contains a preliminary recommendation regarding Board participation in State initiative,
29. A December 22, 2009 an e-mail that contains an opinion by a board member about an Illinois State Board of Education article,
30. A January 8, 2010 e-mail that contains a preliminary draft of minutes from a committee meeting,
31. A January 11, 2010 e-mail that contains a preliminary recommendation regarding the Board's participation in a State initiative,
32. A January 12, 2010 that contains a preliminary draft of the posting for a vacant Board of Education position,
33. A January 14, 2010 e-mail that contains a preliminary draft of an agenda,
34. A February 5, 2010 that contains a preliminary draft of a meeting agenda,
35. A February 11, 2010 e-mail that attaches a draft of meeting minutes,
36. A February 11, 2010 e-mail that contains a preliminary draft of an announcement of a new board member,
37. A February 17, 2010 e-mail that contains information about an upcoming board meeting,
38. A February 25, 2010 e-mail that contains proposed recommendations regarding the District's summer program,
39. E-mails dated March 10, 12 and 25, 2010 that contains the preliminary draft of meeting minutes,

40. A March 24, 2010 e-mail that contains log-in information to a password protected site,
41. A March 25, 2010, e-mail that contains the recommendation of change to a preliminary draft,
42. A March 25, 2010, e-mail that contains the recommendation of change to meeting minutes, and
43. A March 28, 2010, e-mail that contains draft of minutes from a committee meeting,

Determinations

The District'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 District's request for approval of its decision to withhold information pursuant to Section 7(1)(f) is approved.

This Office has reviewed the e-mails and concluded that a portion of the e-mails may be withheld in their entirety and that a portion of e-mails may be disclosed but subject to certain redactions pursuant to Section 7(1)(b).¹

For purposes of FOIA, "public records" means "documentary materials *pertaining to the transaction of public business*". 5 ILCS 140/2(c). Upon reviewing the e-mails, it is our finding that the following e-mails do not pertain to the transaction of public business and accordingly, it does not appear that the e-mails are "public records" of the District which are subject to disclosure under FOIA.

1. A May 25, 2009 e-mail regarding personal travel information for a board member,
2. A May 28, 2009 e-mail regarding the health and personal travel plans of a District employee,
3. A June 2, 2009 e-mail regarding the status of the health condition of a District employee's relative,
4. An August 2, 2009 e-mail regarding personal appointments of a board member's family,
5. An August 3 and 4, 2009 e-mail regarding the personal appointments of a board member,
6. An August 10, 2009 e-mail regarding a board member's health,
7. A September 11, 2009 e-mail chain that discusses the personal relationship of a District employee,
8. A September 29, 2009 e-mail exchange regarding a board member's daughter's wedding,
9. An October 23, 2009 e-mail chain regarding an employee's family member's health,
10. A October 25, 2009 e-mail regarding an employee's relative's health,
11. A January 14, 2010 e-mail regarding personal travel plans for the Superintendent,

¹ Redactions or documents that are exempt pursuant to Section 7(1)(b) do not require pre-approval from this Office. Section 2(c-5) defines private information as unique identifiers, including "a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal e-mail addresses. Private information also includes home addresses and personal license plates, except as otherwise provided by law or when compiled without the possibility of attribution to any person." 5 ILCS 140/2(c-5).

12. A January 26, 2010 e-mail chain regarding the health condition of a board member's family member,
13. A March 4, 2010 e-mail regarding a board member's son,
14. E-mails dated March 4, 12 and 13, 2010 regarding a board member's family member's death,
15. A March 14, 2010 e-mail regarding a funeral for the board member's family member,

With respect to the correspondence that detail the District's interviews with potential candidates for the bookkeeping position and administrative secretary and the subsequent recommendations by the District, this Office finds that disclosure of the potential applicants could constitute an unwarranted invasion of personal privacy pursuant to Section 7(1)(c). Specifically with respect to all information relating to the hiring of prospective candidates, this Office relies on 2010 PAC 5602, a previously-issued pre-authorization request to support its argument. In 2010 PAC 5602, our Office 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 the City did not hire.

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. Therefore, the District may withhold the following information pursuant to Section 7(1)(c) and Section 7(1)(f):

1. A June 29, 2009 e-mail chain that includes information regarding prospective applicants for the bookkeeping and administrative secretary position,
2. A July 5, 2009 email chain regarding applicants being interviewed for a position with the District, and
3. E-mail chains dated August 13, 17, 21, 24 and 27, 2009 that contain preliminary recommendations regarding prospective applicants for the bookkeeping and administrative secretary position.

We find, however, that the following information is not exempt from disclosure under FOIA. Section 2.5 provides that "[a]ll records relating to the obligation receipt and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public." 5 ILCS 140/2.5. Additionally, this information is not exempt under Section 7(1)(c), as information that relates to the employee's public duties shall not be considered an invasion of privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). Therefore, we find that the following information must be disclosed as they either relate to public funds or the duties of the District employees:

1. A June 1, 2009 e-mail chain that contains information regarding a former employee's unemployment claim. The District may redact the social security number and other unique identifiers pursuant to Section 7(1)(b).
2. A June 17, 2009 e-mail regarding an employee's remaining vacation and leave days, and daily rate of pay. The District may redact unique identifiers of the employee pursuant to Section 7(1)(b).

3. A July 29, 2009 e-mail that contains information about the Superintendent's absence from work.²
4. An October 21, 2009 e-mail regarding hotel reservations for a Board Member. The District may redact the confirmation number.
5. A November 16, 2009 e-mail regarding a board member's name change, and
6. A March 3, 2010 e-mail chain that contains information about a school auction. The District may redact the names of District parents who spent money at the auction but must disclose the dollar amount.

As to the District's proposed use of Section 7(1)(f), our Office finds that the District may withhold the following e-mails in their entirety:

1. A June 15, 2009 e-mail chain that contains a preliminary draft and recommendations to that draft,
2. A July 13, 2009 e-mail chain that contains notes for the proposed policy agenda the proposed agenda and also contains information about a closed session meeting,
3. A July 29, 2009 e-mail that contains information about the Superintendent's absence from work,
4. A July 31, 2010 e-mail that suggests a meeting time change,
5. An August 4, 2009 e-mail that contains a suggestion by an employee about a meeting,
6. An August 14, 2009 e-mail that contains a draft of a preliminary application grant,
7. An August 27, 2009 e-mail that contains a correction to a preliminary draft of meeting minutes,
8. An August 27, 2009 e-mail chain that contains corrections to a preliminary draft of a job description,
9. An August 28, 2009 e-mail that discusses a possible course of action with regard to a health insurance option,
10. An August 28, 2009 e-mail chain that contains corrections to a preliminary draft of job description,
11. A September 17, 2009 e-mail that contains suggestions about the band room,
12. A September 18, 2009 e-mail that contains the draft of the Board of Education policy manual,
13. A September 18, 2009 e-mail that contains a preliminary draft letter for review,
14. A September 18, 2009 e-mail that contains a preliminary draft regarding the District's on-line policy manual,
15. A September 18, 2009 e-mail that contains a preliminary draft letter to the community,
16. A September 18, 2009 e-mail that contains the draft of an administrative procedure,
17. A September 19, 2009 e-mail that contains preliminary discussions regarding use of a paperless systems,
18. A September 30, 2009 e-mail that contains a preliminary policy draft,
19. An October 5, 2009 e-mail that discusses employee misconduct and a possible course of action with regard to the misconduct,
20. An October 6, 2009 e-mail that contains the preliminary draft of minutes from committee meetings,

² In its letter, the District asserted that this information is exempt from disclosure pursuant to Section 7(1)(f). We note that neither Section 7(1)(c) of Section 7(1)(f) would withhold this information from disclosure.

21. An October 7, 2009 that contains a preliminary draft as to proposed changes in meeting minutes,
22. E-mails dated October 7, 13 and 19 2009 that contains the preliminary draft of meeting minutes,
23. An October 21, 2009 e-mail that the contains a draft letter,
24. A November 3 and 4, 2009 e-mail chain that contains information about a change in meeting time,
25. A November 16, 2009 e-mail chain that contains information about an upcoming meeting,
26. A December 20, 2009 e-mail that contains a preliminary recommendation regarding Board participation in State initiative,
27. A December 22, 2009 an e-mail that contains an opinion by a board member about an Illinois State Board of Education article,
28. A January 8, 2010 e-mail that contains a preliminary draft of minutes from a committee meeting,
29. A January 11, 2010 e-mail that contains a preliminary recommendation regarding the Board's participation in a State initiative,
30. A January 14, 2010 e-mail that contains a preliminary draft of an agenda,
31. A January 12, 2010 that contains a preliminary draft of posting for a vacant Board of Education position,
32. A February 5, 2010 that contains a preliminary draft of a meeting agenda,
33. A February 11, 2010 e-mail that attaches a draft of meeting minutes,
34. A February 11, 2010 e-mail that contains a preliminary draft of an announcement of a new board member,
35. A February 17, 2010 e-mail that contains information about an upcoming board meeting,
36. A February 23, 2010 e-mail that contains preliminary financial projections regarding the school's upcoming auction,
37. A February 24, 2010 e-mail chain regarding the budget,
38. E-mails dated February 25 and 26, 2010 that contains proposed recommendations regarding the District's summer program,
39. E-mails dated March 10, 12, and 25, 2010, e-mail that contains the preliminary draft of meeting minutes,
40. A March 24, 2010 e-mail that contains log-in information to a password protected site,
41. A March 24, 2010, e-mail that makes a recommendation of changes and corrections to a preliminary draft,
42. A March 28, 2010, e-mail that contains draft of minutes from a committee meeting,
43. A March 25, 2010 e-mail that contains the preliminary draft of meeting minutes, and
44. A March 25, 2010, e-mail that contains the recommendation of change to a preliminary draft.

With respect to the above emails, our Office has concluded that this information reflects the preliminary decisions and deliberative discussions of the District regarding various policies and procedures. Additionally, the e-mails contain draft documents that were not yet finalized and subject to revision. As such, these documents fall within the scope of Section 7(1)(f). To the extent that any of the drafts such as the meeting minutes, agendas and letters have become final

products and have been cited and identified by the head of the public body, the District should disclose this information to [REDACTED]

Please be advised that the following e-mails may be withheld in their entirety pursuant to Section 7(1)(b) or other statutes:

1. A June 1, 2009 e-mail from a company with directions on how to access secure e-mail communications. The District may redact any confidential log-in information or information that it may deem trade secrets pursuant to Section 7(1)(g).³
2. A September 17, 2009 e-mail that contains the private email addresses of community members,
3. A September 29, 2009 e-mail that contains log-in information to password protected site,
4. An October 16, 2009 e-mail that contains school student record information and personal information regarding the discipline of a student,⁴
5. A February 16, 2010, e-mail that contains a district tax exempt identification number,
6. A February 16, 2010 e-mail that contains a product purchase reference number,⁵
7. A March 23, 2010 e-mail that contains log-in information to a password protected site, and
8. A March 24, 2010 e-mail that contains a confidential password.

Please be advised that the individual e-mail addresses of the sender and the recipient may be withheld pursuant to Section 7(1)(b). Based on this analysis, the District should release the documents specified above and may withhold the remaining documents. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By: [REDACTED]

Matthew C. Rogina
Assistant Public Access Counselor

³ Section 7(1)(g) which exempts from inspection and copying trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested." 5 ILCS 140/7(1)(g).

⁴ This information may be withheld pursuant to the School Student Records Act, 105 ILCS 10/1 *et-seq.*

⁵ This information may be withheld pursuant to Section 7(1)(g).

Cc: Suzette Lambert, Superintendent
Signal Hill School District 181
40 Signal Hill Place
Belleville, Illinois 6223



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