



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2011

Mr. Bernie Hughes
Community High School District 218
Administration Center
10701 S. Kilpatrick Avenue
Oak Lawn, Illinois 60453

RE: Pre-Authorization Request - 2011 PAC 13180

Dear Mr. Hughes:

We have received and reviewed the written notice from the Community High School District 218 (District) of its intention 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.

On March 7, 2011, [REDACTED] submitted a FOIA request to the District seeking certain information related to the "expulsion, suspension, probation and the need to contact local police due to behavior of a student/school employee for the 2008, 2009, 2010, 2011 school years."

On March 22, 2011, the District submitted a Pre-Authorization Request with the Office of the Public Access Counselor and asserted that certain information is exempt from disclosure under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)), Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)), which exempts from inspection or 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." 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," but further provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy." (Emphasis added.)

Specifically, the District seeks to withhold certain documents relating to the discipline of approximately 20 District employees.

Determination

The District's request for approval of its decision to withhold the documents pursuant to Section 7(1)(c) is approved in part and denied in part.

Upon review of the documents, we have determined that they clearly relate to the public duties of the approximately 20 District employees who faced possible discipline. As such, these documents may not be withheld pursuant to Section 7(1)(c). The District may redact any information that relates to specific medical conditions and family issues of certain employees.¹ The District may not withhold references to health insurance benefits that some employees may have received upon dismissal from the District as they fall within the scope of Section 2.5 of FOIA (5 ILCS 140/2.5) which 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." (Emphasis added.)

We also note that the District seeks to withhold this information pursuant to Section 11 of the Personnel Record Review Act (PRRA) (820 ILCS 40/11). Please be advised that Section 9.5(b) of FOIA (5 ILCS 140/9/5(b)) does not require the Office of the Public Access Counselor to address the applicability of the PRRA.²

Accordingly, the District has not met its initial burden pursuant to Section 7(1)(c) and, except as noted in this letter, must disclose this information to [REDACTED]. Should you have any questions or concerns, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

[REDACTED]

Matthew C. Rogina
Assistant Public Access Counselor

cc:

[REDACTED]

13180 pre-auth dl 7(1)(c) priv sd

¹ Pursuant to Section 7(1)(c), the District may redact a portion of the April 14, 2009 letter that references an employee's family member and information as to a medical condition contained in the March 18, 2009 letter.

² We do note, however, that the records the District seeks to withhold under the PRRA would not likely qualify as evaluations within the meaning of Section 11 of the PRRA.