



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 14, 2011

Brandi Charlie-Lee
Human Resources Assistant
DuPage County Human Resources Department
421 N. County Farm Road
Wheaton, IL 60187

RE: Pre-Authorization Request – 2011 PAC 13288

Dear Ms. Charlie-Lee:

We have received and reviewed the written notice from DuPage County Human Resources Department of its intention to deny disclosure of certain information pursuant to the Illinois Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*

Specifically, on March 7, 2011, Ms. Christy Gutowski submitted a FOIA request to the Department, seeking information regarding a former DuPage County Circuit Clerk employee. In its written notice, the Department asserts that the dates during which the employee took a leave of absence from work pursuant to the federal Family and Medical Leave Act (FMLA) are exempt from disclosure under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)).

Determination

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.” *Id.* The exemption defines “unwarranted 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 addition, the exemption 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.” *Id.*

The Department’s use of the Section 7(1)(c) exemption with regard to the dates during which an employee was out on FMLA is **denied**. We have determined that the disclosure of this information would not constitute a clearly unwarranted invasion of personal privacy because the time period that a public employee is absent from work directly “bears on” the amount of time such employee spends performing his public duties. Thus, to the extent, if any, that a public

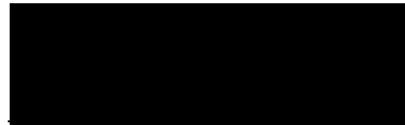
April 14, 2011

Page 2

employee may have a privacy interest in that information, the public's legitimate interest in obtaining the information outweighs any privacy interest of the employee.

In accordance with this letter, therefore, the Department must release the requested information to Ms. Gutowski. If you have any questions, please feel free to contact me at (312) 814-6437. This letter shall serve to close this matter.

Sincerely,



Tola Sobitan
Assistant Public Access Counselor

cc: Christy Gutowski
Chicago Tribune
cmgutowski@tribune.com

13288 preauth dl 71c emp inf county