



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 18, 2010

Joann Snelling
Freedom of Information Act Officer
East Moline School District #37
3555 19th Street
East Moline, IL 61244

RE: Pre-Authorization Request – 2010 PAC 10099
Requester: Nicole Lauer

Dear Ms. Snelling:

We have received and reviewed the written notice from the East Moline School District #37 (School District) of its intention to deny disclosure of certain information as exempt from disclosure under Sections 7(1)(f) and 7(1)(c) of the Freedom of Information Act (FOIA). 5 ILCS 140/1 *et seq.*, as amended. On September 22, 2010, Nicole Lauer requested “[a]ny and all communication, including memorandums and e-mails, sent to or by any member of the school board regarding the employment, performance or resignation of Barry Green from the dates of March 1, 2010 to Sept. 22, 2010.” This request was narrowed to include only communications that were “adverse” or “critical.” The School District asserts that certain information in the responsive records and certain responsive records in their entirety are exempt from disclosure under Section 7(1)(f) or Section 7(1)(c) of FOIA.

Section 7(1)(f)

Section 7(1)(f) of FOIA exempts from inspection and copying “[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions 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).

We have determined that the School District’s use of the exemption in Section 7(1)(f) with regard to these records is approved. These records contain opinions and were used to formulate actions. The School District asserts that none of these records has been publicly cited or identified by the head of the School District. Thus, the School District has met its initial burden of showing that these records are exempt from disclosure under Section 7(1)(f).

Section 7(1)(c)

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)(c) also 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.*

We have determined that the School District’s use of the exemption in Section 7(1)(c) with regard to the information the School District proposes to withhold is approved. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c). 5 ILCS 140/7(1)(c). This information is highly personal and does not bear on Mr. Green’s public duties, and Mr. Green’s right to privacy outweighs any legitimate public interest in obtaining this information.

Accordingly, the School District should issue a partial denial letter directly to Ms. Lauer and release the non-exempt records to her with the appropriate information redacted. Should you have any questions or concerns, feel free to contact Sarah Kaplan at (312) 814-2086. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:

Amalia Rioja by SRK

Amalia Rioja
Chief Deputy Public Access Counselor

cc: Nicole Lauer
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