



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 17, 2011

Dr. Julie Morris, Superintendent
Freedom of Information Act Officer
Harlem Consolidated School District No. 122
8605 North Second Street
Machnsey Park, Illinois 61115

RE: Pre-Authorization Request - 2010 PAC 6571

Dear Dr. Morris:

We have received and reviewed the written notice from Harlem Consolidated School District No. 122 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 26, 2010, Danielle Maxwell-Zerenby, a reporter with *WREX*, submitted a FOIA request to the District seeking information relating to the dismissal of Kerry Vega.

On March 31, 2010, the District submitted its Pre-Authorization Request to this Office seeking to withhold the documents from disclosure pursuant to 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.)

The Office of the Public Access Counselor initiated further inquiry into this matter on April 8, 2010. The District responded to this Office on April 16, 2010 and supplied us with a copy of the documents that it seeks to withhold. Specifically, the District seeks to withhold four documents

that include a March 19, 2009 form, a March 23, 2009 letter to Ms. Vega, a resignation letter and a handwritten note.

Determinations

The District's request for approval of its decision to withhold the documents in their entirety pursuant to Section 7(1)(c) is denied. Upon review of the documents, we have determined that they clearly relate to the public duties of Ms. Vega. The fact that she was not employed at the time Ms. Zerenby submitted her FOIA request does not affect the Section 7(1)(c) analysis. Specifically, the documents related to Ms. Vega's public duties *at the time* of her employment.

The District, however, may redact the signature of Ms. Vega in two documents pursuant to Section 7(1)(c) and withhold a handwritten note pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(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."

Accordingly, the District has not met its initial burden pursuant to Section 7(1)(c) and must disclose these documents to Ms. Zerenby.

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,

A large black rectangular redaction box covering the signature of Matthew C. Rogina.

Matthew C. Rogina
Assistant Public Access Counselor

cc: Ms. Danielle Maxwell-Zerenby
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Rockford, Illinois 61101

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