

OFFICE OF THE ATTORNEY GENERAL STATE OF ILLINOIS

Lisa Madigan ATTORNEY GENERAL

February 28, 2011

Teri Dunn Assistant Director Human Resources Peoria School District No. 150 3202 N. Wisconsin Avenue Peoria, Illinois 61603

RE: Pre-Authorization Request – 2010 PAC 10007

Dear Ms. Dunn:

We have received and reviewed the written notice from Peoria School District No. 150 of its intention to deny disclosure of certain emails pursuant to the Illinois Freedom of Information Act (FOIA). 5 ILCS 140/1 et seq.

Specifically, on September 16, 2010, Ms. Ernestine Jackson submitted a FOIA request to the School District, seeking several records including all emails sent within the District by Ms. Jamie Brown from March 1, 2010 to August 30, 2010. In its written notice, the School District asserts that certain emails are exempt from disclosure under Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)). The School District also asserts that certain health information and personal bank account numbers have been withheld from disclosure under Section 7(1)(c) of FOIA (5 ILCS 140/7(1)(c)).

On October 12 2010, this Office sent a further inquiry letter to the School District, requesting a copy of all emails that the School District is withholding from disclosure under Section 7(1)(f) of FOIA. On November 22, 2010, the School District provided the requested records for our review.

Determination

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 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."

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." 5 ILCS 140/7(1)(c). 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*.

The School District's use of the Section 7(1)(f) exemption with regard to the withheld records is approved. We have determined that the withheld emails consist of opinions and recommendations which were utilized by the School District in formulating various policies and/or actions. Accordingly, the School District has met its initial burden of establishing that the requested email attachments are exempt from disclosure under Section 7(1)(f) of FOIA.

Further, the School District's use of Section 7(1)(c) exemption with regard to health information contained in the requested emails is <u>approved</u>. We have determined that the disclosure of information relating to medical conditions and treatment would constitute a clearly unwarranted invasion of personal privacy under Section 7(1)(c) of FOIA. This type of information is highly personal by its very nature and the subject's right to privacy outweighs any legitimate public interest in disclosing this information. As such, the School District has met its initial burden of demonstrating that this information is exempt from disclosure under Section 7(1)(c) of FOIA.

To the extent that the requested records may include personal information such as personal bank accounts numbers, such information constitutes "private information" as defined in Section 2(c-5), which the School District may redact pursuant to Section 7(1)(b) without seeking preauthorization from the Public Access Counselor.

If you have any questions or concerns, please feel free to contact me directly at (312) 814-6437. This correspondence shall serve to close this matter.

Sincerely,

Tola Sobitan
Assistant Public Access Counselor

cc: Ernestine Jackson
NAACP
P.O. Box 6002
Peoria, IL 61601-6002

10007 preauth al 71f prelim sd