



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

December 11, 2023

*Via electronic mail*



*Via electronic mail*

Legislative Reference Bureau  
121 North LaSalle Street, Room 200  
Chicago, Illinois 60602  
legislativereference@cityofchicago.org

RE: FOIA Request for Review – 2019 PAC 56946

Dear [REDACTED] and Legislative Reference Bureau:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2022)).

On January 29, 2019, [REDACTED] submitted a FOIA request to the Legislative Reference Bureau (Bureau) of the City Council (Council) for the City of Chicago (City) seeking copies of "all FOIA documents and FOIA records that [name] reviewed, processed, and completed when she worked at the Legislative Reference Bureau from March 1, 2016 through February 25, 2018."<sup>1</sup> On February 5, 2019, the Bureau denied the request in its entirety pursuant to section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f) (West 2018)).

On February 21, 2019, this office received [REDACTED] Request for Review. He did not challenge the substance of the Board's denial, but alleged only that the Bureau's denial

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<sup>1</sup>E-mail from [REDACTED] to Legislative Reference Bureau FOIA Officer (January 29, 2019).

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letter did not comply with the procedural requirements of section 9(a) of FOIA.<sup>2</sup> Specifically, he asked this office to "review whether the Legislative Reference Bureau was wrong to not include the name(s) and job title(s) in the Bureau's response when the Bureau denied my FOIA request."<sup>3</sup>

In response to this office's letter asking the Bureau to respond to ██████████ allegation, the Bureau asserted that it responded to ██████████ FOIA request as a courtesy, but it does not consider itself to be a public body subject to the requirements of FOIA.

Section 3(a) of FOIA<sup>4</sup> requires each "public body" to "make available to any person for inspection or copying all public records, except as provided in Section 7" of FOIA. Section 2(a) of FOIA defines a "public body" as:

[A]ll legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof.

The plain language of that definition encompasses legislative bodies of cities, such as the City Council, as well as their subsidiary bodies.

In support of its contention that it is not a public body, the Bureau stated:

The Legislative Reference Bureau (LRB) performs a wide range of functions for members of the Chicago City Council, City Council Committees, and Aldermanic Staff. The LRB reports to the President Pro Tempore of the City Council. While called a Bureau, the LRB functions as an extension of the staff of the members of the City Council. The LRB does not provide services to the public, nor is it responsible for supplying services to the City

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<sup>2</sup>5 ILCS 140/9(a) (West 2018). This provision states, in pertinent part: "Each public body denying a request for public records shall notify the requester in writing of the decision to deny the request, the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, **and the names and titles or positions of each person responsible for the denial.**" (Emphasis added.)

<sup>3</sup>E-mail from ██████████ to Public Access Counselor (February 21, 2019).

<sup>4</sup>5 ILCS 140/3(a) (West 2018).

itself. Accordingly, like members of the City Council in the performance of their duties, the LRB is not subject to the provisions of the Freedom of Information Act.<sup>[5]</sup>

The Bureau's reference to Council members acting in the performance of their individual duties appears to suggest that it is analogizing itself to an individual alderman. The Illinois Appellate Court has concluded that individual public officers do not fall within the definition of a "public body" under FOIA. *Quinn v. Stone*, 211 Ill. App. 3d 809, 812 (1st Dist. 1991). In that case, the court upheld the dismissal of a complaint for injunctive relief against a City of Chicago alderman because the alderman was "not the proper recipient" of a FOIA request to which he did not respond. *Quinn*, 211 Ill. App. 3d at 812. Based on that precedent, the Public Access Bureau has consistently determined that public officials are not required to respond to FOIA requests submitted to them individually. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 65842, issued December 15, 2020, at 2 ("Requests for public records concerning individual senators are properly submitted to the public bodies to which they belong, not to the representatives themselves.").

Section 2-8-820 of the City's Municipal Code (Code)<sup>6</sup> governs the establishment of the Bureau stating, "[t]here is hereby created and established a legislative reference bureau which shall be known as the 'city council legislative reference bureau'. The said bureau shall be under the control, supervision and direction of the President Pro Tempore of the City Council." Section 2-8-850 of the Code<sup>7</sup> sets forth the Bureau's powers and duties, providing:

It shall be the duty of said bureau:

- (a) To prepare, upon the request of any member of the city council, ordinances, resolutions and orders proposed to be introduced in the city council by said members, including amendments, substitutes and revisions of existing or proposed ordinances, resolutions and orders;
- (b) To collect, catalogue, classify, index, completely digest, topically index, checklist and summarize all ordinances, resolutions and orders as well as amendments or revisions thereof,

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<sup>5</sup>Letter from Legislative Reference Bureau, Office of Alderman Margaret Laurino to Shannon Barnaby, Assistant Attorney General, Illinois Attorney General's Office (March 18, 2019).

<sup>6</sup>Chicago Municipal Code § 2-8-820 (amended September 11, 2013).

<sup>7</sup>Chicago Municipal Code § 2-8-850 (amended September 11, 2013).

if any, introduced in the city council, as soon as practicable after the same have been printed, and to furnish copies of the digest, indexed and topically indexed, to each member of the city council after each meeting of the city council;

(c) To collect, assemble and catalogue in such manner as may make the same readily accessible, the ordinances, resolutions, orders and laws of other cities and municipal corporations, and such other printed or written material as may aid the members of the city council in the performance of their duties;

(d) To coordinate and provide to the members of the City Council such trainings, briefings and seminars that the President Pro Tempore deems useful and informative.

It is apparent from these provisions that the Bureau is a subsidiary body of the City Council. Courts consider three primary factors in determining whether an entity is a subsidiary body under FOIA and the Open Meetings Act:<sup>8</sup> "(1) whether the entity has a legal existence independent of government resolution; (2) the nature of the functions performed by the entity; and (3) the degree of governmental control exerted over the entity." *Hopf v. Topcorp*, 256 Ill. App. 3d 887, 892 (1st Dist. 1993). The Bureau was statutorily created by the City, and there is no indication that it has developed an independent legal existence as a separate entity such as a not-for-profit corporation. The Bureau is under government control exercised by the Council's President Pro Tempore. Moreover, the Bureau's duties include performing administrative and legislative functions for the Council. Unlike an individual alderman, or a committee that advises only an individual alderman, the above-quoted Code provisions indicate that the Bureau supports and advises the entire Council, which is undoubtedly a "public body." Therefore, this office concludes that, as a subsidiary body of the City Council, the Bureau falls under the definition of a "public body" in section 2(a) of FOIA.<sup>9</sup>

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<sup>8</sup>5 ILCS 120/1 *et seq.* (West 2018).

<sup>9</sup>Based on this office's review of the City's webpage, it appears that FOIA requests seeking Bureau records may be submitted to the City Clerk's Office, which handles FOIA requests for various City Council records. *See* Office of the City Clerk Anna M. Valencia, City of Chicago, Freedom of Information Act, <https://www.chicityclerk.com/office-info/freedom-information-act> ("Our office is responsible for: City Council legislation, ordinances, and journals; Data regarding dog registrations in the City; Data regarding Chicago City Vehicle Stickers; Aldermanic staff personnel files; Information regarding House Share Restrictions and Cannabis Restrictions").

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Because the Bureau submitted information to this office confidentially concerning ██████████ allegation that the Bureau's response violated section 9(a) of FOIA, this office is not at liberty to disclose that information.<sup>10</sup> However, this office notes that the plain language of section 9(a) expressly requires a public body to identify the person responsible for a denial by their names and titles or positions. "Legislative Reference Bureau" does not identify the name and title of any person; therefore, it does not satisfy the requirements of section 9(a). If the Bureau responds directly to future FOIA requests, it should be mindful of its obligation to fully comply with the requirements of section 9(a).

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This file is closed. If you have questions, you may contact me at the Springfield address at the bottom of the first page of this letter.

Very truly yours,

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SHANNON BARNABY  
Senior Assistant Attorney General  
Public Access Bureau

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<sup>10</sup>See 5 ILCS 140/9.5(c) (West 2022).