



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 23, 2024

Via electronic mail

[REDACTED]

RE: FOIA Request for Review – 2024 PAC 82943

Dear [REDACTED]

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2023 Supp.)). For the reasons set forth below, the Public Access Bureau has determined that no further action is warranted.

On August 22, 2024, you submitted a FOIA request to DeKalb Community Unit School District 428 (District) seeking copies of the following:

[A]ll records, communications, reports, and other documents related to bussing issues that have occurred since the beginning of the 2024- 2025 school year within DeKalb Community Unit School District 428. This request includes incidents involving any students who may have experienced bussing errors, delays, or misidentifications.

Specifically, I am requesting:

1. **All internal and external communications** (including emails, memos, and phone call records) between school staff, transportation staff, and any third parties related to bussing issues since the start of the 2024- 2025 school year.
2. **Records from Skyward or any other student information system** reflecting the transportation schedules and any updates

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or changes for students, including any instances where schedules were not properly reflected or communicated.

3. **All records pertaining to bus rides** where students were misidentified, incorrectly transported, or where there were significant delays or errors, including bus logs, GPS data, and driver and aide reports.
4. **Incident reports, if any, filed by school staff or transportation staff** regarding bussing errors, student misidentification, or transportation to incorrect locations.
5. **Any notes or records from meetings or communications** between school officials and parents related to these bussing issues.
6. **All communications and records between school staff and law enforcement officers** regarding the response to any missing child reports or transportation issues since the start of the 2024- 2025 school year.
7. **All documents and communications sent by the Superintendent** or any other district official in response to complaints or reports regarding bussing issues. (Emphasis in original.)^[1]

On April 29, 2024, the District notified you that your FOIA request was voluminous because your request sought at least five categories of records. The District advised that you had ten business days to amend your request such that it would no longer be a voluminous request, and that if it did not receive an amended request, it would respond to your request and may assess permissible fees.

On August 30, 2024, you provided the District with an amended FOIA request, which removed the portion of your request seeking records regarding delays. On September 9, 2024, the District notified you that your amended FOIA request continued to be voluminous because your request sought at least five categories of records and an initial search for e-mail records yielded thousands of records. On September 12, 2024, you submitted a completed Request for Review which appears to contest the District's notification that your request is voluminous.²

¹E-mail from [REDACTED] to [DeKalb Community Unit School District 428] (August 22, 2024).

²On September 18, 2024, you sent this office additional correspondence pertaining to video footage from a school bus that the District informed you that it does not possess or maintain. Your correspondence did not ask this office to review the District's response, did not provide a signed Request for Review, and did not provide a copy of the FOIA request; therefore, this office treated that correspondence as information for the above-referenced Request for Review. We note, however, that "[a] requester is entitled only to records that an agency has in fact chosen to create and retain." *Yeager v. Drug Enforcement Administration*, 678 F.2d 315, 321 (D.C. Cir.

First, your Request for Review appears to contest the timeliness of the District's designation of your amended request as voluminous. Section 3.6(c) of FOIA (5 ILCS 140/3.6(a) (West 2022)) provides, in pertinent part, that if an amended request continues to be voluminous, "the public body shall respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to the public body's notification [that the request was voluminous]." You submitted your amended FOIA request to the District on August 30, 2024. Five business days after August 30, 2024, is September 9, 2024, the date the District responded by notifying you that your amended request was voluminous.³ Therefore, the District's voluminous designation was timely.

Second, you appear to contest the District's ability to charge fees for records. Section 3.6(c) of FOIA provides four options for a public body's response, including providing the requester with an estimate of the fees to be charged; FOIA does not require a public body to waive copying fees for voluminous requests even if disclosure of the records would further a public interest. Regardless, the District's September 9, 2024, response did not provide an estimate of fees, but rather notified you that your amended FOIA request was unduly burdensome pursuant to section 3(g) of FOIA (5 ILCS 140/3(g) (West 2022)) and offered you an opportunity to confer with it to help you reduce the scope of your request. This office notes that in your amended FOIA request you mentioned that you were especially interested in the two incidents reported at the School Board meeting. Accordingly, you may wish to submit a new FOIA request to the District seeking records pertaining to the two incidents, describing the two incidents with as much detail available to you, and providing a specific time frame for the search.⁴

Third, you appear to contest the District's designation of your amended FOIA request as voluminous because it seems unlikely that there are thousands of records over a two-to-three-week period. Section 2(h) of FOIA (5 ILCS 140/2(h) (West 2023 Supp.)) defines "voluminous request" as a request that:

- (i) includes more than 5 individual requests for more than 5 different categories of records or a **combination of individual**

1982); *see also Workmann v. Illinois State Board of Education*, 229 Ill. App. 3d 459, 463-64 (1992) (a public body does not violate FOIA when it does not disclose a record that it does not possess).

³Business days exclude weekends and certain holidays, such as labor day, which fell on September 2, 2024.

⁴This office notes that parts of your August 22, 2024, FOIA request and parts of your August 30, 2024, amended FOIA request ask for records with a time frame and other parts do not include a time frame for the records requested. In the future you may wish to be more specific. *See Manna v. U.S. Dep't of Justice*, 106 F. Supp. 3d 16, 19 (D.D.C. 2015) (public bodies are not required to search beyond the four corners of a FOIA request, nor are they required to divine the requester's intent).

requests that total requests for more than 5 different categories of records in a period of 20 business days; or

(ii) requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single requested record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map, microfilm, tape, or recording. (Emphasis added.)

Although your Request for Review appears to contest the District's designation of your Request for Review as voluminous because you do not think that there could be thousands of records, a public body may designate a request as voluminous when a request seeks more than five different categories of records.⁵ Your amended request seeks at least six different categories of records, including, but not limited to: (1) internal and external communications regarding busing issues; (2) records from Skyward or any other student information system; (3) records pertaining to bus rides; (4) incident reports; (5) notes or records from meetings; and (6) communications between school staff and law enforcement officers. Thus, regardless of whether your amended request requires the compilation of more than 500 pages of records, it qualifies as a "voluminous request" under the definition of that term in section 2(h) of FOIA because of the number of categories of records it seeks. Because your request seeks at least six different categories of records, FOIA authorized the District to treat your request as a voluminous request, and the Public Access Bureau has determined that no further action is warranted in this matter.

This file is closed. If you have any questions, please contact me at 312-814-5201, edie.steinberg@ilag.gov, or at the Chicago address listed on the bottom of the first page of this letter.

Very truly yours,


EDIE STEINBERG
Senior Assistant Attorney General
Public Access Bureau

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⁵Webster's Third New International Dictionary defines "category" as "a class, group, or classification of any kind[.]" Webster's Third New International Dictionary 352 (1993).

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October 23, 2024

Page 5

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