



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

January 3, 2020

Via electronic mail

[REDACTED]

RE: FOIA Request for Review – 2019 PAC 61177

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 2018)). For the reasons set forth below, the Public Access Bureau has determined that no further action is warranted as to this matter.

On November 18, 2019, you submitted a FOIA request to the Plainfield Community Consolidated School District No. 202 (District) seeking "[a]ny existing records of teachers anecdotal notes prepared by"¹ five named District employees from January 1, 2018, to the date of the FOIA request. You noted that "'teacher anecdotal notes' shall be defined, in pertinent part, as: records used to document specific observations of individual student behaviors, skills and attitudes as they relate to the outcome of learning objectives."² You stated that "this request is limited to formal written reports or notes prepared by the [named District employees] and does not include e-mail correspondence or routine academic performance records compiled on all students."³ On November 20, 2019, the District informed you that your request was vague and unduly burdensome, explaining that "[t]eachers take notes and provide formal reports on students every day. To review all these records would be unduly burdensome under [s]ection 3(g) of the FOIA [5 ILCS 140/3(g) (West 2018), as amended by Public Act 101-081, effective July 12, 2019]." Rather than invite you to narrow your request to more

¹Letter from [REDACTED] to Thomas A. Hernandez, Freedom of Information Act Officer, Plainfield Community Consolidated School District 202 (November 18, 2019).

²Letter from [REDACTED] to Thomas A. Hernandez, Freedom of Information Act Officer, Plainfield Community Consolidated School District 202 (November 18, 2019).

³Letter from [REDACTED] to Thomas A. Hernandez, Freedom of Information Act Officer, Plainfield Community Consolidated School District 202 (November 18, 2019).

manageable proportions, the District asserted that all of the records responsive to your request are student records that are exempt from disclosure pursuant to the Illinois School Student Records Act (ISSRA) (105 ILCS 10/6(a) (West 2018)) and section 7.5(r) of FOIA (5 ILCS 140/7.5(r) (West 2018), as amended by Public Acts 101-013, effective June 12, 2019; 101-027, effective June 25, 2019; 101-081, effective July 12, 2019; 101-375, effective August 16, 2019; 101-377, effective August 16, 2019; 101-600, effective December 6, 2019; 101-620, effective December 20, 2019). Your Request for Review challenged the District's assertion of 3(g) and argued that the students' identities could be redacted from the responsive records.

Section 7.5(r) of FOIA exempts from disclosure "[i]nformation prohibited from being disclosed by the [ISSRA]."⁴ Section 6(a) of ISSRA provides that "[n]o school student records or information contained therein may be released, transferred, disclosed or otherwise disseminated, except" to certain authorized parties who are irrelevant here. Section 2(d) of ISSRA (105 ILCS 10/2(d) (West 2018)) defines "school student record" as "any writing or other recorded information concerning a student and **by which a student may be individually identified**, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored." (Emphasis added.)

In *Bowie v. Evanston Community Consolidated School District No. 65*, 128 Ill. 2d 373, 375 (1989) parents of students requested student test scores and the race of each student tested for a five-year period. The Illinois Supreme Court held that a "masked record, which deletes individual identifying information, does not fall within the definition of a school student record, and is not prohibited from disclosure under the Act." *Bowie*, 128 Ill. 2d at 379. In *Board of Education of City of Chicago v. Illinois Education Labor Relations Board*, 2013 IL App (1st) 122447, ¶19, 3 N.E. 3d 343, 350 (2013), the Illinois Appellate Court distinguished student disciplinary records from masked test scores, stating that "[a] 'masked' record is one where any information identifying a student has been deleted and the record is released for the purpose of research, statistical reporting, or planning." The court held that ISSRA prohibited disclosure of two students' disciplinary records because "the mere redaction of the students' surnames or reference to the students by their initials does not render the records 'masked.'" *Illinois Education Labor Relations Board*, 2013 IL App (1st) 122447, ¶21, 3 N.E. 3d at 350.

Your FOIA request sought records documenting certain teachers' "specific observations of individual student behaviors, skills and attitudes"⁴ for nearly two years. Unlike the test score data of a large group of students at issue in *Bowie*, which could be readily masked by redacting the students' names and scrambling the scores, your request sought highly specific information pertaining to individual students which was compiled by certain teachers for a discrete timeframe. Redacting the names alone would not suffice to prevent the students from

⁴Letter from [REDACTED] to Thomas A. Hernandez, Freedom of Information Act Officer, Plainfield Community Consolidated School District 202 (November 18, 2019).

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being identified—parents, students, or other members of the public familiar with the teachers' classrooms could ascertain the identities of students based on the specific circumstances described in the notes or reports. Because ISSRA specifically prohibits disclosure of records from which individual students could be identified, the District did not improperly deny your request pursuant to section 7.5(r) of FOIA. Therefore, no further action is necessary in this matter.

This file is closed. If you have any questions, please contact me at 217-524-7958 or at the Springfield address listed on the bottom of the first page of this letter.

Very truly yours,

[REDACTED]
LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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