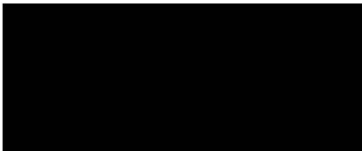


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 1, 2024

Via electronic mail



RE: FOIA Request for Review – 2024 PAC 83088

Dear [REDACTED]

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2023 Supp.)). For the reasons explained below, this office has determined that no further action is warranted in this matter.

On September 3, 2024, you submitted a FOIA request to Libertyville School District No. 70 (District) seeking "incident reports related to physical altercations at Highland Middle School for the period from Jan 2023 to August 2024. Specifically, I am interested in reports documenting incidents where students were involved in physical fights or assaults, including any records of disciplinary actions taken."¹ On September 17, 2024, the District denied your request in its entirety pursuant to section 6 of the Illinois School Student Records Act (ISSRA)² and sections 7(1)(a)³ and 7.5(r)⁴ of FOIA. The District stated that "redacting the

¹FOIA Request from [REDACTED] to [Libertyville School District No. 70] (September 3, 2024).

²105 ILCS 10/6 (West 2022).

³5 ILCS 140/7(1)(a) (West 2023 Supp.), as amended by Public Act 103-605, effective July 1, 2024.

⁴5 ILCS 140/7.5(r) (West 2023 Supp.), as amended by Public Acts 103-592, effective June 7, 2024; 103-605, effective July 1, 2024; 103-636, effective July 1, 2024; 103-786, effective August 7, 2024; 103-859, effective August 9, 2024; 103-991, effective August 9, 2024; 103-1049, effective August 9, 2024.

information would not sufficiently de-identify the student(s) involved."⁵ On September 26, 2024, this office received your complete Request for Review contesting the District's response. In your Request for Review, you contend that the District should disclose the records with names and other identifying information redacted if necessary.

Section 7.5(r) of FOIA exempts from disclosure "[i]nformation prohibited from being disclosed by the [ISSRA]." 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 ISSRA⁶ 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 (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. In accordance with those cases, this office has previously determined that records documenting student behavior, rather than test scores, could not be sufficiently redacted to prevent the identification of students and that ISSRA prohibits the disclosure of such records. Ill. Att'y Gen. PAC Req. Rev. Ltr. 61177, issued January 3, 2020, at 2-3 ("[P]arents, 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.").

Your FOIA request sought records documenting incidents where "students were involved in physical fights or assaults, including any records of disciplinary actions taken."⁷

⁵Letter from Robin Smith Kollman, Director of Communications, FOIA Officer, Libertyville School District 70, to [REDACTED] (September 17, 2024), at [1].

⁶105 ILCS 10/2(d) (West 2022).

⁷FOIA Request from [REDACTED] to [Libertyville School District No. 70] (September 3, 2024).

[REDACTED]
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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 information regarding specific events and the conduct of individual students. Redacting the names alone would not suffice to prevent the students from being identified because parents, students, or other members of the public familiar with the incidents or classrooms could ascertain the identities of students based on the specific circumstances described in the records. 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.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at (773) 590-7878 or benjamin.silver@ilag.gov.

Very truly yours,

[REDACTED]

BENJAMIN J. SILVER
Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
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