



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

October 14, 2015



Ms. Jessica J. Riddick
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005

RE: FOIA Request for Review – 2015 PAC 35802

Dear [REDACTED] and Ms. Riddick:

This determination letter is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2014)). For the reasons that follow, the Public Access Bureau concludes that section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2014)) precludes this office from reviewing the Township High School District 113's (District's) denial of [REDACTED] April 7, 2015, FOIA request.

On that date, [REDACTED] submitted a FOIA request to the District seeking certain records pertaining to particular bond issues. On April 9, 2015, the District notified [REDACTED] that it was treating his request as a "voluminous request" pursuant to section 3.6 of FOIA (5 ILCS 140/3.6 (West 2014)) and gave him the opportunity to narrow his request to manageable proportions within ten (10) business days from the date of this letter. On April 22, 2015, the District denied [REDACTED] request as unduly burdensome pursuant to section 3(g) of FOIA (5 ILCS 140/3(g) (West 2014)). On June 15, 2015, this office received [REDACTED] Request for Review contesting the denial of this request.

On June 24, 2015, this office sent a copy of the Request for Review to the District and asked it to provide a detailed summary for the applicability of section 3(g) of FOIA along with any other documents or information that would help us as we review these issues. On July 7, 2015, the District provided its written response, which, among other things, asserted that the Public Access Bureau did not have the jurisdiction to review the denial of this FOIA request because, "[REDACTED]" is a pseudonym, not a real person, and therefore could not submit a

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Request for Review, nor sign a Request for Review.¹ On July 8, 2015, this office forwarded the District's response to [REDACTED] [REDACTED] responded on August 7, 2015, by, among other things, contending that it is irrelevant whether or not a pseudonym was used in filing this Request for Review, but he did not dispute the District's allegation. On September 9, 2015, an Assistant Attorney General in the Public Access Bureau contacted [REDACTED], by e-mail, and asked that he or she clarify specifically whether [REDACTED] was a pseudonym. On September 16, 2015, [REDACTED] responded to this office but again declined to clarify whether [REDACTED] is a psuedonym.

DETERMINATION

The Illinois Supreme Court "has repeatedly held that statutes should be read as a whole and construed so that no part is rendered meaningless or superfluous." *People v. Lloyd*, 2013 IL 113510, ¶25, 987 N.E.2d 386, 392 (2013). Section 3(c) of FOIA (5 ILCS 140/3(c) (West 2014)) provides that "[r]equests for inspection or copies shall be made *in writing* and directed to the public body." (Emphasis added.) Section 9.5(a) of FOIA provides that a person may file a Request for Review "not later than 60 days after the date of the final denial[]" and that it must be "in writing," as well as *signed by the requester*." (Emphasis added).

Black's Law Dictionary defines a signature, in pertinent part as: "[a] person's name or mark written by that person * * *; one's handwritten name as one ordinarily writes it, as at the end of a letter or a check, to show that one has written it. * * * The act of signing something; the handwriting of one's name in one's usual fashion." Black's Law Dictionary (10th ed. 2014) *available at* Westlaw BLACKS. On the other hand, Black's Law Dictionary defines pseudonym as a "fictitious name or identity." Black's Law Dictionary (10th ed. 2014) *available at* Westlaw BLACKS.

The plain language of the definition of a "signature" reflects that a signature must identify the person who has written the document in question – the writing of a fictitious name or identity is not a signature. Notably, section 3(c) does not require a FOIA request to be signed, while section 9.5(a) of FOIA expressly provides that a Request for Review must be signed by the requester. Reading FOIA as a whole, it is clear that if a Request for Review could be filed anonymously, or under a pseudonym, then the provision of section 9.5(a) of FOIA that requires a Request for Review to be signed by the requester would be rendered superfluous.

¹Letter from Jessica J. Riddick, Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP to Shannon Barnaby, Assistant Attorney General, Public Access Bureau, Office of the Attorney General (July 7, 2015), at 2.

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Furthermore, section 2(b) of FOIA (5 ILCS 140/2(b) (West 2014)) defines "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." This office has previously determined that although a FOIA request may generally be filed anonymously, the filing of a Request for Review requires the individual, or an individual designee from an organization, that is filing a Request for Review to furnish the first and last name of this individual to this office. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 23977, issued August 23, 2013.

Accordingly, because the District has asserted that [REDACTED] is a pseudonym and because [REDACTED] has not disputed that assertion, based on the available information, this office concludes that this Request for Review is not "signed by the requester" and therefore does not comply with section 9.5(a) of FOIA. Thus, the Request for Review is incomplete, and more than 60 days has passed since the request was denied on April 22, 2015. As a result, this office is precluded from reviewing the public body's denial of [REDACTED] April 7, 2015, FOIA request.

The Public Access Counselor has determined that the resolution of this matter does not require the issuance of a binding opinion. This letter shall serve to close this matter. If you have any questions, you may contact me by mail at the Chicago address listed on the first page of this letter.

Very truly yours,

[REDACTED]
SHANNON BARNABY
Assistant Attorney General
Public Access Bureau

35802 f 9.5(a) proper sd

Huicochea, Daniel

From: Huicochea, Daniel on behalf of Access, Public
Sent: Wednesday, October 14, 2015 2:57 PM
To: [REDACTED]
Subject: 35802 Closing letter
Attachments: 35802 f 9.5(a) proper sd.pdf

Attached is a letter from AAG Barnaby.

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