



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 30, 2015

*Via electronic mail*

Mr. Tom Ripperda  
Educational Concepts Unlimited, Inc.  
3301 West Main Street  
Belleville, Illinois 62226  
[REDACTED]

RE: FOIA Request for Review – 2015 PAC 36229

Dear Mr. Ripperda:

The Public Access Bureau received your Request for Review, pursuant to section 9.5(a) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2014)) concerning a FOIA request that you submitted to the University of Illinois (University). For the reasons that follow, the Request for Review process is not available in this instance because you requested records for a commercial purpose.

On May 4, 2015, you submitted a FOIA request to the University, which was subsequently narrowed on June 3, 2015, seeking, among other things, copies of a PowerPoint presentation and handouts that the University developed pursuant to a contract with the Illinois Health Insurance Marketplace to provide training to assistants and navigators under the Patient Protection and Affordable Care Act (42 U.S.C. § 18001 *et seq.* (2010)); *see also* 45 C.F.R. § 155.205(d) (2015)). On July 2, 2015, the University denied your request for the PowerPoint presentation and handouts asserting that those records are exempt from disclosure pursuant to sections 7(1)(j)(iv) and 7(1)(q) of FOIA (5 ILCS 140/7(1)(j)(iv), 7(1)(q) (West 2014)). On July 9, 2015, this office received your Request for Review contesting the University's denial.

Section 9.5(a) of FOIA (5 ILCS 140/9.5(a) (West 2014)) allows a person whose FOIA request is denied to seek review of that denial with the Public Access Counselor. However, section 9.5(b) of FOIA (5 ILCS 140/9.5(b) (West 2014)) creates an exception by providing that a "person whose request to inspect or copy a public record is made for a commercial purpose as defined in subsection (c-10) of Section 2 of this Act may not file a request for review with the Public Access Counselor." Section 2(c-10) of FOIA (5 ILCS 140/2(c-10) (West 2014)) defines "commercial purpose" as the "use of any part of a public

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record or records, or **information derived from public records, in any form for sale, resale, or solicitation** or advertisement for sales or services." (Emphasis added.) Under section 9.5(b) of FOIA, the Public Access Counselor's review process is not available to a person whose request was made for a commercial purpose.

Your FOIA request was not identified on its face as being for a commercial purpose. However, your Request for Review clarifies that you are seeking the information in question for the purpose of placing a bid with the Illinois Department of Health so that your company can be the lowest bidder and enter into a contract to provide the training to assistors and navigators. In other words, you seek to use the information requested from the University to solicit the sale of your training services, which constitutes a "commercial purpose" under FOIA. Because you are seeking the PowerPoint presentations and handouts from the University for a commercial purpose, section 9.5(b) of FOIA precludes the Public Access Counselor from reviewing this matter. Please note that you have the option of filing suit for injunctive or declaratory relief pursuant to section 11 of FOIA (5 ILCS 140/11 (West 2014)).

If you have any questions or would like to discuss this matter, please contact me at (312) 814-5201. This letter closes this matter.

Very truly yours,



EDIE STEINBERG  
Assistant Attorney General  
Public Access Bureau

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Cc: *Via electronic mail*  
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