



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

October 16, 2024

Via electronic mail

[REDACTED]

Via electronic mail

Mr. Graydon Engle
FOIA Officer
Central School District 301
graydon.engle@central301.net

Via electronic mail

Mr. Jeff Gorman
President, Board of Education
Central School District 301
jeff.gorman@central301.net

RE: FOIA Request for Review – 2024 PAC 83222

Dear [REDACTED] Mr. Engle, and Mr. Gorman:

On September 26, 2024, [REDACTED] alleged to the Public Access Counselor that Central School District 301 (District) violated the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2022)) during the September 23, 2024, meeting of its Board of Education (Board). More specifically, [REDACTED] alleged that at that meeting, the Board discussed the possibility of charging requesters for FOIA requests; [REDACTED] asserted that other than reproduction costs and other costs allowed by statute, FOIA forbids public bodies from charging requesters. [REDACTED] also expressed concern that Board President Jeff Gorman identified an individual by name as having "the win for most FOIA's for the month[.]"¹

¹E-mail from [REDACTED], AIA, NCARB, LEED AP COO/Managing Principal, Williams Architects (September 26, 2024).

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As an initial matter, we note that the Office of the Public Access Counselor has the authority to review a public body's denial of a FOIA request. 5 ILCS 140/9.5(a) (West 2022)). Section 6(d) of FOIA (5 ILCS 140/6(d) (West 2022)) states that the imposition of a fee that is not authorized by FOIA constitutes a denial of access to public records. However, ██████████ does not allege that the District denied his FOIA request by imposing an excessive fee. Identifying individuals who submitted FOIA requests by name also does not constitute a denial of a FOIA request or violate any other provision of FOIA. Accordingly, this office will take no further action on ██████████ allegation that the District violated FOIA during its September 23, 2024, meeting.

The Public Access Counselor has the authority to educate public bodies and the public on the responsibilities of public bodies under FOIA. 15 ILCS 205/7 (West 2022). This office has reviewed a video recording of the meeting and observed the Board's conversation about updating its policy on charging requesters. In its advisory capacity, this office notes that section 6 of FOIA (5 ILCS 140/6 (West 2022)) outlines the permissible fees a public body may charge in response to most FOIA requests. Section 6(b) of FOIA (5 ILCS 140/6(b) (West 2022)) provides:

Except when a fee is otherwise fixed by statute, each public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies **shall not exceed 15 cents per page.** * * * In calculating its actual cost for reproducing records or for the use of the equipment of the public body to reproduce records, **a public body shall not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records,** except for commercial requests as provided in subsection (f) of this Section. (Emphasis added.)

Additionally, section 6(a) of FOIA (5 ILCS 140/6(a) (West 2022)) states that "statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format."

There are limited exceptions to these provisions. First, if the public body has determined that a requester has submitted a "voluminous request" as defined in section 2(h) of


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FOIA (5 ILCS 140/2(h) (West 2022)) and the public body has complied with the notice requirements to voluminous requesters outlined in section 3.6 of FOIA (5 ILCS 140/3.6 (West 2022)), a public body may be able to charge fees for records furnished in an electronic format as outlined in section 6(a-5) of FOIA (5 ILCS 140/6(a-5) (West 2022)).

Second, if a public body has received a request that has a "commercial purpose" as defined in section 2(c-10) of FOIA (5 ILCS 140/2(c-10) (West 2022)), the public body may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record or examining the record for necessary redactions, except that the public body may not charge for the first 8 hours. 5 ILCS 140/6(f) (West 2022). However, section 6(f) of FOIA states that those fees apply "**only to commercial requests.**" (Emphasis added.) 5 ILCS 140/6(f) (West 2022).

To the extent that the Board is considering updating its policy relating to access to the District's public records, we remind the District that it may not impose fees that exceed the fees outlined in sections 6(a) and 6(b) of FOIA.

You may contact me at leah.bartelt@ilag.gov or (773) 590-6995 if you have questions.

Very truly yours,


LEAH BARTELT
Public Access Counselor
Public Access Bureau

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