OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 3, 2025

*Via electronic mail*
[redacted]

RE: FOIA Request for Review – 2025 PAC 85334

Dear [redacted]:

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

On February 9, 2025, you submitted three FOIA requests to Region 1 Planning Council (R1) containing eight parts total. You submitted the requests as Co-Founder and Principal of KIKIFER'S Entrepreneurial Academy (KEA). On that same date, [redacted] submitted four FOIA requests to R1 containing 14 parts total. [redacted] submitted the requests as Founder and Executive Director of KEA. On February 14, 2025, R1 notified you and [redacted] that your requests collectively qualified as a voluminous request under section 3.6 FOIA,[1] so you had ten business days within which to amend the request in such a way that R1 would no longer treat the request as a voluminous request. On that same date, you replied to R1 by disputing the aggregation of your requests with [redacted] and by stating that you would not be narrowing the request. On February 18, 2025, R1 extended its time to respond by ten business days. On February 27, 2025, you submitted a Request for Review to the Public Access Bureau alleging that R1 improperly treated your requests as a voluminous request.

[1]5 ILCS 140/3.6 (West 2022).

As an initial matter, section 9.5(b-5) of FOIA (5 ILCS 140/9.5(b-5) (West 2023 Supp.)) provides that "[a] *person* whose request to inspect or copy a public record was treated by a public body * * * as a voluminous request under Section 3.6 of this Act may file a request for review with the Public Access Counselor for the purpose of reviewing whether the public body properly determined that the request was a voluminous request." (Emphasis added.) Section 2(b) of FOIA (5 ILCS 140/2(b) (West 2023 Supp.)) defines "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." This office has previously determined that individuals who submit requests on behalf of the same business constitute the same "person" for purposes of FOIA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 17798, issued September 21, 2018, at 4 (concluding that "classifying each individual employee who submits a FOIA request in their employment capacity as a separate 'person' under section 2(g) would enable any business with a sufficiently large number of employees to overwhelm a public body with FOIA requests.").

In this instance, R1 had a valid basis to treat the requests submitted under your name and the requests submitted under [redacted] name as requests by the same person because you both submitted the requests on behalf of KEA and your communications with the Public Access Bureaureflect that you are working together closely on these matters.

Section 2(h) of FOIA[2] defines "voluminous request" as a request that:

> (i) includes more than 5 individual requests for more than 5 different categories of records or a combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days; or
>
> (ii) requires the compilation of more than 500 letter or legal-sized pages of public records unless a single requested record exceeds 500 pages. "Single requested record" may include, but is not limited to, one report, form, e-mail, letter, memorandum, book, map, microfilm, tape, or recording.

Section 3.6(a) of FOIA[3] provides that "[n]otwithstanding any provision of this Act to the contrary, a public body shall respond to a voluminous request within 5 business days after receipt." This response shall notify the requester:

> (i) that the public body is treating the request as a voluminous request; (ii) the reasons why the public body is treating the request as a voluminous request; (iii) that the requester must respond to the

[2]5 ILCS 140/2(h) (West 2023 Supp.).

[3]5 ILCS 140/3.6(a) (West 2022).

> public body within 10 business days after the public body's response was sent and specify whether the requester would like to amend the request in such a way that the public body will no longer treat the request as a voluminous request; (iv) that if the requester does not respond within 10 business days or if the request continues to be a voluminous request following the requester's response, the public body will respond to the request and assess any fees the public body charges pursuant to Section 6 of this Act; (v) that the public body has 5 business days after receipt of the requester's response or 5 business days from the last day for the requester to amend his or her request, whichever is sooner, to respond to the request; (vi) that the public body may request an additional 10 business days to comply with the request; (vii) of the requester's right to review of the public body's determination by the Public Access Counselor and provide the address and phone number for the Public Access Counselor; and (viii) that if the requester fails to accept or collect the responsive records, the public body may still charge the requester for its response pursuant to Section 6 of this Act and the requester's failure to pay will be considered a debt due and owing to the public body and may be collected in accordance with applicable law.

Section 3.6(c) of FOIA[4] then specifies what must happen next:

> [T]he public body shall respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to the public body's notification under this subsection. The response shall: (i) provide an estimate of the fees to be charged, which the public body may require the person to pay in full before copying the requested documents; (ii) deny the request pursuant to one or more of the exemptions set out in this Act; (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested.

Additionally, under section 3.6(d) of FOIA,[5] "[t]he time for response by the public body under subsection (c) of this Section may be extended by the public body for not more than 10 business days from the final day for the requester to respond to the public body's notification under

[4]5 ILCS 140/3.6(c) (West 2022).

[5]5 ILCS 140/3.6(d) (West 2022).

subsection (c) of this Section for any of the reasons provided in subsection (e) of Section 3 of" FOIA (5 ILCS 140/3(e) (West 2022)).

In accordance with the provisions set out above, R1 notified you and [redacted] within five business days after receipt that your requests qualified as a voluminous request and that you had ten business days within which to narrow the request if you did not wish for it to be treated as voluminous. After you confirmed that you would not be narrowing the request, R1 took a proper extension of ten business days to respond under section 3.6(d) of FOIA. Although you argue that R1 failed to demonstrate an undue burden for purposes of section 3(g) of FOIA,[6] your submissions to this office do not suggest that R1 has yet treated your request as unduly burdensome under that provision. Rather, R1 explained why your request met the definition of "voluminous request." Additionally, although you argued that R1 did not justify its extension of ten business days, the plain language of section 3.6(d) of FOIA authorizes a public body to take an additional 10 business days to comply with a request after the requester responds to a notification that the request is voluminous. Because the request was voluminous, the procedures and timeframe for responding to your request are governed by section 3.6 rather than section 3(d) of FOIA (5 ILCS 140/3(d) (West 2022)).

Lastly, although you alleged that R1 failed to provide a breakdown of costs for fees it might assess, and that electronic documents should be furnished at no cost, section 6(a-5) of FOIA[7] provides:

> If a voluminous request is for electronic records and those records are not in a portable document format (PDF), the public body may charge up to $20 for not more than 2 megabytes of data, up to $40 for more than 2 but not more than 4 megabytes of data, and up to $100 for more than 4 megabytes of data. If a voluminous request is for electronic records and those records are in a portable document format, the public body may charge up to $20 for not more than 80 megabytes of data, up to $40 for more than 80 megabytes but not more than 160 megabytes of data, and up to $100 for more than 160 megabytes of data. If the responsive electronic records are in both a portable document format and not in a portable document format, the public body may separate the fees and charge the requester under both fee scales.
>
> If a public body imposes a fee pursuant to this subsection (a-5), it must provide the requester with an accounting of all fees,

[6] 5 ILCS 140/3(g) (West 2022).

[7] 5 ILCS 140/6(a-5) (West 2022).

> costs, and personnel hours in connection with the request for public records.

By its plain language, this provision permits public bodies to assess fees for copies of electronic records in response to voluminous requests. Section 3.6(e) of FOIA[8] additionally specifies:

> If a requester does not pay a fee charged pursuant to Section 6 of this Act for a voluminous request, the debt shall be considered a debt due and owing to the public body and may be collected in accordance with applicable law. This fee may be charged by the public body even if the requester fails to accept or collect records the public body has prepared in response to a voluminous request.

In the event R1 assesses fees for copies of records responsive to your request under section 6(a-5) of FOIA, it shall provide you with an accounting of all fees, costs, and personnel hours, but R1 is not required to provide that information unless and until it actually imposes fees.

Because the information you submitted does not indicate that R1 violated FOIA, the Public Access Bureau has determined that no further action is warranted in this matter. This file is closed. If you have any questions, please contact me at joshua.jones@ilag.gov.

Very truly yours,

[redacted]

JOSHUA M. JONES
Bureau Chief
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[8] 5 ILCS 140/3.6(e) (West 2022).

*Via electronic mail*
[redacted]