



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 8, 2017

Via electronic mail

Via electronic mail

Ms. Phyllis Stewart
FOIA Officer
Quincy Public School District No. 172
1416 Maine Street
Quincy, Illinois 62301
stewarph@qps.org

RE: FOIA Requests for Review – 2015 PAC 37368; 2016 PAC 42164;
2016 PAC 42741

Dear [REDACTED] and Ms. Stewart:

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)). [REDACTED] has submitted three similar FOIA requests to the Quincy Public School District #172 (District) and three Requests for Review contesting the District's respective responses to his FOIA requests (2015 PAC 37368, 2016 PAC 42164, and 2016 PAC 42741).¹ This office has consolidated the files for purposes of this determination because they concern the same records and the same issues. For

¹E-mail from [REDACTED] to [Phyllis] Stewart or [Ryan] Whicker (August 24, 2015) (requesting "a hard copy of all these previous complaints and the investigation reports.") (2015 PAC 37368); e-mail from [REDACTED] to [Phyllis] Stewart or [Ryan] Whicker (May 12, 2016) (requesting "certified hard copies of all these 'previous complaints which have been investigated and found to be without merit' and the investigation reports.") (2016 PAC 42164); e-mail from [REDACTED] to Ryan Whicker (June 19, 2016) (requesting "certified hard copies of all [REDACTED] previous complaints which have been investigated and found to be without merit' and the investigation reports.") (2016 PAC 42741).

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the reasons that follow, the Public Access Bureau concludes that the District's responses to ██████████
██████████ did not violate FOIA.

Between September 4, 2015, and, June 30, 2016, ██████████ submitted the above-captioned Requests for Review alleging that the District responded improperly to his FOIA requests seeking "previous complaints" and "investigation reports" referenced in "Joel Murphy's written report to Steven Cobb regarding my uniform Grievance (Section 2:260)."² The "written report" ██████████ references is a letter written on District letterhead, dated March 3, 2014, from Mr. Joel A. Murphy, Complaint Manager, to Mr. Steven M. Cobb, Superintendent, regarding Mr. Murphy's findings on a grievance complaint ██████████ submitted to the District.³ The letter provides:

I have investigated the Complaint filed by ██████████
on January 22, 2014, a copy of which is attached.

My investigation reveals:

1. A longstanding dispute by the complainant with the Quincy Public Schools.
2. The matters complained of are not materially different from *previous complaints which have been investigated and found to be without merit.*

Accordingly, I recommend the complaint be dismissed.⁴
(Emphasis added.)

The District denied each of ██████████ requests by stating that they were either vague or overbroad or repeated requests for records that were previously provided to him. This office construes those responses as asserting that ██████████ did not reasonably describe the records he is seeking, or denials under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2014)), which provides, in pertinent part: "Repeated requests from the same person for the same records

²Letter from ██████████ to the Public Access Counselor (September 4, 2015) (2015 PAC 37368); e-mail from ██████████ to the Public Access Counselor (May 31, 2016) (2016 PAC 42164); e-mail from ██████████ to the Public Access Counselor (June 30, 2016) (2016 PAC 42741). ██████████ grievance complaint makes several allegations regarding the transfer of assets from the District's Working Cash Fund. Uniform Grievance 2:260 from ██████████ to Joel Murphy, Complaint Manager, Quincy Public School District 172 (January 22, 2014).

³Letter from Joel A. Murphy, Complaint Manager, to Mr. Steven M. Cobb, Superintendent, Quincy Public School District # 172 (March 3, 2014).

⁴Letter from Joel A. Murphy, Complaint Manager, to Mr. Steven M. Cobb, Superintendent, Quincy Public School District # 172 (March 3, 2014).

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that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision."

This office forwarded a copy of each of ██████████ Requests for Review to the District and asked the District to explain its responses to ██████████ requests. The District provided written explanations to this office. ██████████ submitted replies.

DETERMINATION

Section 1.2 of FOIA (5 ILCS 140/1.2 (West 2014)) provides that "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." However, "[a] requester is entitled only to records that an agency has in fact chosen to create and retain." *Yeager v. Drug Enforcement Administration*, 678 F.2d 315, 321 (D.C. Cir. 1982). FOIA "is not intended to compel public bodies to interpret or advise requesters as to the meaning or significance of the public records." 5 ILCS 140/3.3 (West 2014); *see also Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32, 540 N.E.2d 11, 13 (4th Dist. 1989) (a public body is not required to answer questions or create records in response to a FOIA request).

With respect to any responsive records of "previous complaints," in a telephone call with an Assistant Attorney General (AAG) in the Public Access Bureau, the District's attorney, Mr. David G. Penn, clarified that the "previous complaints" Mr. Murphy referenced in his March 3, 2014, letter were a general history of communications from ██████████ including in person meetings with ██████████; he was not referring to any specific written complaints. On December 1, 2016, this office asked ██████████ whether he submitted to the District any written complaints that he is seeking from the District.⁵ Without directly answering that question, ██████████ responded that he had two letters referring to previous complaints, which he forwarded to this office.⁶ Upon review, ██████████ provided this office with four letters dated between March 26, 2012, and June 25, 2012, which consist of correspondence between an attorney for ██████████ and an attorney for the District, and correspondence from an attorney for ██████████ to the Illinois State Board of Education, none of which refer to any written complaints from ██████████ to the District.

With respect to the requested "investigation reports," Mr. Penn explained that the

⁵E-mail from Edie Steinberg, Assistant Attorney General, Public Access Bureau, to ██████████ (December 1, 2016).

⁶E-mail from ██████████ to Edie Steinberg [Assistant Attorney General, Public Access Bureau] (December 1, 2016).

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District did not previously conduct a formal investigation related to its history of communications with [REDACTED], and that no investigation reports were written. This office has not received any information from which we could conclude that Mr. Murphy was referring to any particular records of "previous complaints" in his May 3, 2014, letter. Nor does the available information indicate that the District possesses any "investigation reports" responsive to [REDACTED]'s request. This office also notes that to the extent that [REDACTED] requests could be construed as asking the District to interpret Mr. Murphy's May 3, 2014, letter and answer questions regarding the meaning of the letter, FOIA does not require the District to interpret records or answer questions. *See* 5 ILCS 140/3.3 (West 2014).

Although the District's responses to [REDACTED] requests may have been clearer, for the reasons explained above, this office concludes that the District's responses to [REDACTED] did not violate FOIA.

The Public Access Counselor has determined that resolution of these matters do not require the issuance of a binding opinion. These files are closed. If you have any questions, please contact me at 312-814-5201 or at the Chicago address listed on the first page of this letter.

Very truly yours,

[REDACTED]

EDIE STEINBERG
Assistant Attorney General
Public Access Bureau

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