

July 30, 2015

Alan Albus

FOIA Officer

Lake Forest School District 67 and 115

300 S. Waukegan Road

Lake Forest, IL 60045

Dear Mr. Albus:

Re: Request for Consideration, New Illinois FOIA Request, and Inspector General Request

I am extremely disappointed that District 115 is, once again, hiding behind Illinois FOIA exceptions to deny the public documents that are clearly subject to disclosure under the Act. You attempt to sweep important public issues under the rug by hoping that residents will give up on their legitimate requests through wearing them down with frivolous denials requiring appeals which, if they are ever addressed, take months or years to resolve until which time the issues have become stale.

I still have appeals pending of documents denied regarding the 2011 Steinert scandal, allowing Griffith to retire without the public scrutiny he was due concerning his role in the cover-up of that scandal. I also still have an appeal pending from post-union negotiations in October of 2012 when the district refused to produce documents I requested, including production of any "strike plan" the District had in effect. The failure of the District to respond and the appeal to be resolved allowed yet another set of negotiations to come and go without public scrutiny of the prior one.

There are many members of the Lake Forest/Lake Bluff community who believe that Superintendent Simeck and the Board were derelict in their duties by selecting Dr. Holland as the LFHS principal. That hiring decision has already been made and presumably cannot be undone and I sincerely hope that Dr. Holland does work out well as principal. However, the public has the right to know, on a timely basis, what information District 115 had at its disposal in making that controversial hiring decision. From the perspective of many, Dr. Holland was simply not ready for the position of principal (i.e. not qualified). Many were also concerned that Dr. Holland had allegedly publicly voiced some views that could be construed as anti-white. It might be that after review by concerned citizens of the information District 115 had at its disposal, the concerns about the Board's and Simeck's dereliction of duty will be allayed,

but the public unquestionably has the right to review the requested information. The more you withhold the more the public thinks there is something adverse you are hiding.

It is extremely difficult for public oversight when you repeatedly attempt to hide the ball such as with respect to my document requests concerning the LFHS principal hire, the 2012 union negotiations, and the 2011 Steinert scandal. This is all the more reason why there needs to be a paid Inspector General to oversee the Superintendent and the School Board, someone who has the time to devote and resources at his or her disposal (like legal counsel) to fight this nonsense. I am copying Superintendent Simeck on this letter, and hereby request that he put on the Board's agenda the need to appoint an Inspector General or, at the very least, the need to let the public as a whole decide if they want one.

Our schools and towns have in the past sent out questionnaires to the public on issues of lesser concern; I request that if the Board is not inclined to hire an Inspector General on its own initiative, that a questionnaire be circulated to every household as soon as possible. I would like to have the opportunity to review that questionnaire lest it be worded in a way to encourage a no vote. The taxpayers in Lake Forest and Lake Bluff pay far too much to fund our school systems to be denied a paid representative to foster their interests. Our teachers, for example, have paid union representation; why should the taxpayers deserve any less?

Back to the merits of your continual withholding of the documents I requested in my July 17, 2015 Illinois FOIA request, I submit that your withholding has no merit whatsoever, with the possible exception of your position on the documents I requested regarding the denied applicants for the LFHS principal position. In that regard, you quote the following from an unidentified source (no Internet link): "The Public Access Counselor ("PAC") has repeatedly recognized that applications for employment and information contained in the applications are exempt from disclosure under section 7 (\*1) (c) for those applicants who are unsuccessful in obtaining the position." Please provide me with a link for that source so I can review it for context and accuracy. I expect that that same source also reveals that such information from the successful candidate IS NOT exempt from disclosure, which would demonstrate your knowing violation of the law.

With respect to the documentation you have withheld concerning Dr. Holland and the information you have redacted from what you did produce, the withholdings and redactions are clearly wrongful. I am appealing your denial but encourage you to avoid waste of taxpayer resources by promptly producing all information District 115 had at its disposal regarding Dr. Holland, both positive and negative, including her grades, her transcripts, her prior salaries, her references, and any information ever available to District 115 agents, representatives or employees regarding her activities at academic consulting company HECG ([www.hollanded.com](http://www.hollanded.com)), and her Facebook and other social media and internet posts that pertain to her views related to education and race, including but not limited to her views on "white privilege," the propriety of placement tests and segregating students by ability, and on her alleged comparison of such practices as vestiges of the Jim Crow laws. To the extent that you do not view any of

these requests as encompassed in my June 30, 2015 Request, I hereby now request them pursuant to the Illinois FOIA. Furthermore, I hereby request pursuant to the Illinois FOIA any writings regarding my June 30, 2015 Request or appeal of this Request (a supplement FOIA request for the same was made on July 17, 2015) including any writings by legal counsel concerning the propriety of your withholdings and any email or other internal correspondence regarding same. The days of secretive deliberations and communications in the public sector have, as you know, long been over.

Please see my appeal letter, a copy of which is being contemporaneously supplied to you. That letter sets forth the reasons why you should forthwith produce all requested documents and unveil the information you redacted in the documents you did produce. Thank you.

Sincerely,

Nancy J. Thorner  
331 E. Blodgett Ave.  
Lake Bluff, IL 60044

(847) 295-1035

Cc: Superintendent Michael Simeck

July 31, 2015

[publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

Public Access Counselor,  
Office of the Attorney General  
500 South 2nd Street  
Springfield, IL 62706

Re: Appeal of Illinois FOIA Request Denial

Dear Public Access Counselor:

I am writing to appeal the denial of certain documents requested in my June 30, 2015 Illinois FOIA Request to School District 115 and to appeal the redaction in certain documents that were produced. Copies of my Requests and the responses from District 115 are attached hereto.

Specifically, District 115 has failed to produce or has redacted, with respect to Dr. Charla Holland, the successful candidate for the principal of Lake Forest High School, her Illinois Educator Identification Number, her grade point averages, her prior salaries, her reference letters, her transcripts, and documents relating the deliberations by those involved in recommending and approving her hiring. This information was withheld as allegedly exempt under Section 7 (1) (c) of the FOIA. 5 ILCS 140/7(1)(c). It is clearly not exempt, and I hereby request that you instruct District 115 to produce that information.

Section 7(1)(c) exempts from disclosure personal information contained within public records only if disclosure would “constitute a clearly unwarranted invasion of personal privacy” and only when the “subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” It further provides that “the disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.”

As an applicant for a position with District 115 and as a current employee of District 115, Dr. Holland has no reasonable expectation of privacy with respect to information she provided in order to gain that position. Moreover, even if she does have any right to privacy with respect to that information, the public’s right to disclosure of that information outweighs privacy rights. There is a large segment of the community that believes that District 115 was derelict in its duties by selecting Dr. Holland as principal. The public, therefore, has the right to review information the District had at its disposal in making that employment decision, including her grade point averages, her prior salaries, her reference letters, her transcripts, and documents relating the deliberations by those involved in recommending and approving her hiring.

As the United States Supreme Court has held under the directly analogous federal FOIA: “We must weigh the privacy interest . . . in nondisclosure . . . against the only relevant public interest in the FOIA balancing analysis – the extent to which disclosure of the information sought would ‘she[d] light on an agency’s performance of its statutory duties’ or otherwise let citizens ‘know what their government is up to.’” (quoting *Reporters Comm.*, 489 U.S. at 773). *DOD v. FLRA*, 510 U.S. 487, 497 (1994). See also Presidential Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009) (emphasizing that the Freedom of Information Act

reflects a "profound national commitment to ensuring an open Government" and directing agencies to "adopt a presumption in favor of disclosure"). The public, in this instance, clearly has the right to know "what their government is up to" and the presumption in favor of disclosure mandates disclosure.

The case for disclosure here is not even a close one. Courts have repeatedly held that the very information requested is subject to disclosure. See, e.g., *Habeas Corpus Resource Ctr. v. DOJ*, No. 08-2649, 2008 WL 5000224, at \*4 (N.D. Cal. 2008) (ordering release of email chains regarding the decision to hire a DOJ attorney because "[p]laintiff's interest - and the public's interest - in determining whether [attorney's] hiring was improper is sufficient to outweigh any minimal privacy interest [the attorney] may have in keeping these opinions from the public"); *Barvick v. Cisneros*, 941 F. Supp. 1015, 1020 n.4 (D. Kan. 1996) (noting that the agency had "released information pertaining to the successful candidates' educational and professional qualifications, including letters of commendation and awards, as well as their prior work history, including federal positions, grades, salaries, and duty stations"); *Samble v. U.S. Dep't of Commerce*, No. 1:92-225, slip op. at 11 (S.D. Ga. Sept. 22, 1994) (requiring disclosure of successful job applicant's "undergraduate grades; private sector performance awards; foreign language abilities; and his answers to questions concerning prior firings, etc., convictions, delinquencies on federal debt, and pending charges against him"); *Associated Gen. Contractors, Inc. v. EPA*, 488 F. Supp. 861, 863 (D. Nev. 1980) (education, former employment, academic achievements, and employee qualifications).

As the above makes abundantly clear, District 115 has wrongfully withheld documents and information responsive to my Request. It should be noted that District 115 has repeatedly wrongfully relied on FOIA exemptions to deny document production and thwart the public's right to know what is going on in our school system. This wrongful conduct cannot be countenanced. I request that not only the District be required to produce all withheld documents and information, but that it also be sanctioned for its withholding because it lacked any viable basis for doing so and it is a repeat offender.

Thank you.

Respectfully submitted,

Nancy J. Thorner  
331 E. Blodgett Ave.  
Lake Bluff, IL 60044

(847) 295-1035