

From: [Simon, James](#)
To: ["Bartelt, Leah"](#)
Cc: [Borman, Curt](#); [McNeil, Ross](#)
Subject: General FOIA Question
Date: Wednesday, November 18, 2020 11:31:54 AM
Attachments: [image002.png](#)

Leah –

I hope that you are doing well as we head into the holiday season.

I kindly ask for some guidance from you on two FOIA issues the City of Urbana has never faced before.

1. We have an individual who has been designated as a recurrent requester. In his most recent FOIA requests he has claimed to be “news media.” However, when we asked him to demonstrate his status as “news media” as defined in FOIA Section 2(f), he has refused to do so. Thus, we have no way of verifying whether this individual can be considered “news media.” I know he is a blogger who uses his blog to rant and rave about local government on a variety of subjects. He has also used his blog to disparage and defame local officials and municipal employees by name. We strongly suspect that he is invoking the “news media” moniker to avoid his status as a recurrent requester and to avoid having to pay fees chargeable pursuant to FOIA Section 6. To my recollection in a conversation we had following either an Illinois Municipal League or an Illinois Local Government Lawyers Association seminar several years ago, you advised me that the PAC does not consider a blogger to be “news media” if he simply operates his own blog.

2. We have another individual who has been designated as a recurrent requester. In her recent FOIA requests, she claims to be a not-for-profit organization. When asked to provide evidence of her not-for-profit organization’s status, she refuses to do so. When asked for the location of her not-for-profit organization, all she provides is an e-mail address. Thus, we have no way of verifying whether this individual is a legitimate not-for-profit organization for FOIA purposes. We suspect that she is invoking the “not-for-profit organization” moniker to avoid her recurrent requester status and to avoid having to pay the fees provided in FOIA Section.

I am seeking your guidance on: (i) whether the City of Urbana has the right to ask these individuals to provide objective evidence as to the respective status claimed; (ii) what type of evidence the City can legitimately request to verify the status of these individuals’ representations; and (iii) what recourse under FOIA the City has should these individuals continue to refuse to cooperate in the City’s efforts to verify the status they respectively seek to invoke. We expect these two individuals and others with whom they work to bombard the City with endless FOIA requests will continue to assert their status as “news media” and “not-for-profit organizations.”

Thank you.

Take care, stay well.

James L. Simon

City Attorney

Legal Division | City of Urbana
400 S Vine St | Urbana, Illinois 61801
217.384.2464



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From: [Bartelt, Leah](#)
To: [Simon, James](#)
Cc: [Borman Curt](#); [McNeil, Ross](#)
Subject: RE: General FOIA Question
Date: Thursday, November 19, 2020 10:13:54 AM
Attachments: [image001.png](#)

We have some determinations relevant to the definitions of “news media” and “non-profit,” and I think we have something on asking for support/proof. I’m working to gather them and I’ll try to get those to you today. Once you review what I’ve sent, we can set a time to discuss next week if that would be helpful.

-Leah

From: Simon, James <jlsimon@urbanaininois.us>
Sent: Wednesday, November 18, 2020 11:32 AM
To: Bartelt, Leah <LBartelt@atg.state.il.us>
Cc: Borman Curt <csborman@urbanaininois.us>; McNeil, Ross <remcneil@urbanaininois.us>
Subject: General FOIA Question

Leah –

I hope that you are doing well as we head into the holiday season.

I kindly ask for some guidance from you on two FOIA issues the City of Urbana has never faced before.

1. We have an individual who has been designated as a recurrent requester. In his most recent FOIA requests he has claimed to be “news media.” However, when we asked him to demonstrate his status as “news media” as defined in FOIA Section 2(f), he has refused to do so. Thus, we have no way of verifying whether this individual can be considered “news media.” I know he is a blogger who uses his blog to rant and rave about local government on a variety of subjects. He has also used his blog to disparage and defame local officials and municipal employees by name. We strongly suspect that he is invoking the “news media” moniker to avoid his status as a recurrent requester and to avoid having to pay fees chargeable pursuant to FOIA Section 6. To my recollection in a conversation we had following either an Illinois Municipal League or an Illinois Local Government Lawyers Association seminar several years ago, you advised me that the PAC does not consider a blogger to be “news media” if he simply operates his own blog.

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I am seeking your guidance on: (i) whether the City of Urbana has the right to ask these individuals to provide objective evidence as to the respective status claimed; (ii) what type of evidence the City can legitimately request to verify the status of these individuals' representations; and (iii) what recourse under FOIA the City has should these individuals continue to refuse to cooperate in the City's efforts to verify the status they respectively seek to invoke. We expect these two individuals and others with whom they work to bombard the City with endless FOIA requests will continue to assert their status as "news media" and "not-for-profit organizations."

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James L. Simon
City Attorney

Legal Division | City of Urbana
400 S Vine St | Urbana, Illinois 61801
217.384.2464



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From: [Bartelt, Leah](#)
To: [Simon, James](#)
Subject: RE: General FOIA Question
Date: Tuesday, November 24, 2020 1:36:57 PM
Attachments: [image002.png](#)
[47422 consol f 2g recurrent req proper pd.pdf](#)
[33323 f no fi war univ 2g news media.pdf](#)
[56925 f no fi war sd \(2g\).pdf](#)
[44649 f no fi war mun.pdf](#)
[38860 f 2h vol req proper sd.pdf](#)
[61809 f 2g improper lib.pdf](#)
[35187 f no fi war univ news media.pdf](#)
[43683 f 3f no pb resp sd identity of req.pdf](#)

Mr. Simon—

I'm attaching a number of determination letters that I hope will assist you in dealing with the situations described below.

Letter 38860 concerns the non-profit exception to the definition of voluminous request. I could not find a letter on a Request for Review involving a recurrent requester who alleges he represents a NFP. Given the similarities in sections 2(g) and 2(h), this determination should provide some guidance on what type of organization falls within the scope of the definition in section 2(g).

Letters 33323, 35187, 44649, 56925 address the definition of news media with respect to requesters who publish blogs/websites or use social media accounts to disseminate information.

This is slightly off the topic of your questions, but I've also attached letters 17798 and 61809 concerning the definition of person and how to attribute requests made by individuals on behalf of companies and organizations.

You ask me to comment on how much evidence the City can demand of requesters who claim they fall within one of the exceptions in the definition of recurrent requester. I hope letter 43683 may provide some guidance on that issue. There, the public body believed the requesters were pseudonyms for someone who had been designated as a recurrent requester, and the public body refused to respond to the requests when the requesters refused to verify their identities. On page 6 of that determination, we provide guidance on how we believe the public body should have responded in the absence of the requesters verifying their identities.

Once you have had a chance to review these determination letters, I'm happy to discuss in more detail. I am available all day tomorrow, and most of next week. If I don't speak with you before Thursday, have a fantastic Thanksgiving.

Warm regards,

Ms. Leah Bartelt
Deputy Public Access Counselor
Public Access Bureau
Illinois Attorney General's Office

th

100 West Randolph Street, 11 Floor
Chicago, Illinois 60601
(312) 814-6437
lbartelt@atg.state.il.us

From: Simon, James [mailto:jlsimon@urbanaillinois.us]
Sent: Wednesday, November 18, 2020 11:32 AM
To: Bartelt, Leah <LBartelt@atg.state.il.us>
Cc: Borman Curt <csborman@urbanaillinois.us>; McNeil, Ross <remcneil@urbanaillinois.us>
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James L. Simon
City Attorney

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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 13, 2015

Via electronic mail



RE: FOIA Request for Review – 2015 PAC 33323

Dear 

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 2012), as amended by Public Act 98-1129, effective December 3, 2014). For the reasons that follow, the Public Access Bureau concludes that no further action is warranted as to this matter.

On January 16, 2015, you submitted a FOIA request to the University of Illinois (University) seeking the following information concerning an e-mail that you indicated was date-stamped "July 24 12:00:00":

- 1) specify whether this is midnight of the 23rd, zero dark of the 24th, or midnight of the 24th, zero dark of the 25th; and
- 2) specify whether the UIUC mail system has any component that allows for timed delivery of email or otherwise explains the timestamp of EXACTLY "12:00:00."¹

On January 20, 2015, you submitted another FOIA request to the University seeking responses to the following questions about a file concerning former professor Steven Salatia:

¹E-mail from  to University of Illinois FOIA (January 16, 2015).

February 13, 2015

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1. What documents are being placed in this file?
2. Are any of these documents third-party documents sent to the university other than emails?
3. What are UIUC's retention policies for third-party documents?^{2,3}

Your requests asserted that because you fall under the exceptions for news media and/or non-profit, scientific or academic organizations, you cannot be properly characterized as a recurrent requester pursuant to section 2(g) of FOIA (5 ILCS 140/2(g) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014, 98-806, effective January 1, 2015).

Your assertions to the contrary notwithstanding, on January 26, 2015, the University responded by designating both requests as requests by a recurrent requester based on 96 requests that you had submitted within the previous 12-month period. The University indicated that it would provide initial responses within 21 business days of receipt of your most recent requests in accordance with section 3.2(a) of FOIA (5 ILCS 140/3.2(a) (West 2012), as amended by 98-756, effective July 16, 2014).

Your Request for Review does not dispute that you submitted a sufficient number of FOIA requests within a 12-month period to be treated as a recurrent requester, but you allege that the University failed to acknowledge that you fall under the exception for news media requesters. Specifically, you state that you engaged in a "news-gathering function" by identifying "TWO variants" of an e-mail at issue in a lawsuit.⁴ Your January 16, 2015, FOIA request to the University further contended:

In my case, I am appropriately classified as a "news media" filer because, during the course of 2014 I issued reports of my FOIA results at regular intervals to the West Urbana Neighborhood Association (WUNA) listserv,⁵ and because from December 2014, on, I have provided exposes on the abuses of your office at regular intervals on my website, samizdat-startups.org (as well as communicating these results to various media outlets for the entire period).⁶

²E-mail from [REDACTED] to University of Illinois FOIA (January 20, 2015).

³FOIA provides that a public body must make public records open to inspection and copying; FOIA does not require a public body to answer questions or explain the meaning of public records. *See* 5 ILCS 140/1.2, 3.3 (West 2012).

⁴E-mail from [REDACTED] to Public Access Bureau (January 27, 2015).

⁵A listserv is a software application that sends e-mails to all subscribers on a mailing list.

Section 2(g) of FOIA defines "recurrent requester" as:

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. *For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition* when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. (Emphasis added.)

Section 2(f) defines "news media" as a "newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format * * *."⁷

Legislative intent is best evidenced by the language used in the statute, and if the statutory language is clear and unambiguous, it must be given effect as written. *Blum v. Koster*, 235 Ill. 2d. 21, 29 (2009). You contend that you constitute a "news media" requester because you: (1) disseminated information to subscribers on an organization's mailing list; (2) disseminated information on your website; and (3) communicated information to news media outlets. A "newspaper" is defined as "a publication consisting of a number of large sheets of folded paper, on which news, advertisements, and other information is printed."⁸ "Periodical" generally refers to "magazines, especially serious or academic ones, that are published at regular intervals."⁹ A "news service," or "news agency," as it is frequently referred to, is "an organization that supplies news to newspapers, radio and television stations, etc. that subscribe to its services."¹⁰ Electronic versions of these types of media are included under the definition of "news media" in section 2(f) of FOIA.

⁶E-mail from [REDACTED] to University of Illinois FOIA (January 16, 2015).

⁷The definition of "news media" also includes radio stations, television stations, television networks, community antenna television services, or persons or corporations engaged in making news reels or other motion picture news for public showing. Because you have not suggested that your website constitutes one of these types of media, we will not address these aspects of the definition.

⁸<http://www.collinsdictionary.com/dictionary/english/newspaper>, accessed February 11, 2015.

⁹<http://www.collinsdictionary.com/dictionary/american/periodical>, accessed February 11, 2015.

[REDACTED]
February 13, 2015

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Your website contains various postings critical of the University that were published between November, 2014, and January, 2015.¹¹ The website, however, does not appear to constitute a newspaper, periodical or news service, or an electronic version thereof, as those terms are commonly understood. Merely disseminating information or criticism electronically through a website, or via e-mail, does not meet the statutory definition of "news media." If it did, then any person who chose to post an opinion or comment on a matter of public interest electronically would become a news medium, which was clearly not the intent of the General Assembly when it enacted the exception. Nor is there any indication that media outlets such as newspapers or radio and television stations subscribe to you to receive news. Accordingly, this office concludes that you are not exempted by the news-media exception from the recurrent requester provisions of FOIA.

Your FOIA request and Request for Review also appeared to assert that you constitute a non-profit organization. However, you acknowledged that although you "have an attorney working to obtain non-profit status[,]" he has not completed filing the required paperwork.¹² Therefore, there is no basis to conclude that you constituted a non-profit, scientific or academic organization within the scope of section 2(g) of FOIA at the time you submitted your FOIA request to the University.

Because you do not fall within the exceptions for news media or non-profit, scientific or academic organizations, we conclude that the University did not erroneously treat you as a recurrent requester in connection with your January 16, 2015, and January 20, 2015, FOIA requests. Accordingly, we have determined that no further action is warranted as to this matter. If you have any questions, please contact me at (312) 814-6756.

Very truly yours,

[REDACTED]
STEVE SILVERMAN
Assistant Bureau Chief
Public Access Bureau

33323 f no fi war univ

¹⁰http://www.collinsdictionary.com/dictionary/american/news-agency#news-agency_1, accessed February 11, 2015.

¹¹<http://www.samizdat-startups.org>, (last visited February 3, 2015).

¹²E-mail from [REDACTED] to Public Access Bureau (January 27, 2015).

February 13, 2015

Page 5

cc: *Via electronic mail*
Mr. Thomas P. Hardy
Executive Director and Chief Records Officer
University of Illinois
Office of University Relations
108 Henry Administration Building
506 South Wright Street, MC-370
Urbana, Illinois 61801
foia@uillinois.edu

Access, Public

From: Access, Public
Sent: Friday, February 13, 2015 12:42 PM
To: [REDACTED]; 'foia@uillinois.edu'
Subject: 3323 Closing letter
Attachments: 33323 f no fi war univ.pdf

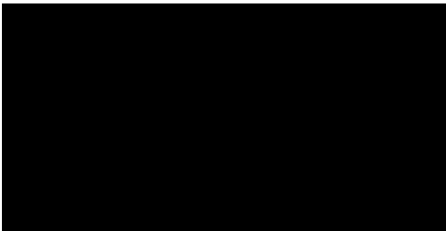
Attached is a letter from Assistant Bureau Chief Silverman.



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 27, 2015



RE: FOIA Requests for Review – 2015 PAC 35187 & 35393

Dear [REDACTED]

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014). For the reasons that follow, the Public Access Bureau concludes that no further action is warranted as to these matters.

BACKGROUND

On April 13, 2015, you submitted a FOIA request to the University of Illinois (University) and requested that the University "apply the news-media exemption to this FOIA of mine, and do not impose any delay period in your response."¹ On April 20, 2015, the University responded by designating your request as a request by a recurrent requester based on the 118 FOIA requests that you had submitted within the previous 12-month period. The University indicated that it would provide an initial response within 21 business days of receipt of your request in accordance with section 3.2(a) of FOIA (5 ILCS 140/3.2(a) (West 2012), as amended by 98-756, effective July 16, 2014). The University further stated: "This office disagrees with your assertion that you fall within the definition of 'news media' as that term is defined in the Act, a position the Public Access Counselor upheld in determination 2015 PAC 33323."² On

¹E-mail from [REDACTED] to University of Illinois FOIA (April 13, 2015).

²E-mail from Thomas P. Hardy, Executive Director and Chief Records Officer, University of Illinois, to [REDACTED] (April 20, 2015).

██████████
May 27, 2015

Page 2

May 11, 2015, you submitted a Request for Review asserting that the University improperly treated your request as a request by a recurrent requester.

On May 13, 2015, you submitted additional FOIA requests to the University and again requested that the University "apply the media exemption to the recurrent requester status portion of Illinois FOIA law[.]"³ On May 20, 2015, the University responded by designating these requests as a requests by a recurrent requester based on the 130 requests that you had submitted within the previous 12-month period. The University again stated that it disagreed that the news media exception in the recurrent requester provisions of FOIA applied to you or your website. On May 20, 2015, you submitted another Request for Review asserting that the University improperly treated your request as a request by a recurrent requester. Because both Requests for Review concern the same allegation, we have consolidated these files for determination.

This office has previously addressed your contention that you are a "news media" requester as defined in section 2(f) of FOIA (5 ILCS 140/2(f) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014, 98-806, effective January 1, 2015). *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, issued February 13, 2015. After the issuance of that determination, you submitted additional information to our office in regard to this issue. In these Requests for Review, you claim that these and other "new facts" submitted to our office warrant re-consideration of our prior determination that you and your website (samizdat-startups.org) are not "news media" as defined by FOIA.⁴ You assert that information you have produced in relation to the University is "more than 'mere' comment on the facts" and is "actual news."⁵ In support of that assertion, you cite your postings on your website and another website (academeblog.org) as well as other correspondence relating to the University. You also assert that your website has subscribers as evidenced by another website ("The Public I") directly citing your website, and others using your information.

DETERMINATION

Section 2(g) of FOIA (5 ILCS 140/2(g) (West 2012), as amended by Public Act 98-1129, effective December 3, 2014, 98-806, effective January 1, 2015) defines a "recurrent requester" as:

³E-mails from ██████████ to University of Illinois FOIA (May 13, 2015).

⁴E-mail from ██████████ to Public Access Bureau (May 10, 2015).

⁵E-mail from ██████████ to Public Access Bureau (May 10, 2015).

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. ***For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition*** when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. (Emphasis added.)

Section 2(f) defines "news media" in relevant part as a "newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format[.]"

In our prior determination, we examined the plain language of section 2(f) which limits the definition of "news media" to a medium such as a "newspaper," "periodical," or a "news service," or an electronic version thereof.⁶ See Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, at 3. Notably, the statutory language exclusively focuses on the nature of the medium, not the content of the communication. Therefore, because your website did not meet the definition of one of these media, we concluded that the "news media" exception to the recurrent requester provisions did not apply. See Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, at 4.

In connection with the instant Requests for Review, we have reviewed and considered your submissions to this office concerning this issue that we have received since our prior determination. As described above, the focus of our inquiry must be the nature of the medium. Your submissions describe postings on your website and other websites as well as correspondence that extensively analyze issues relating to the University, but the existence of analytical content is not determinative of whether you or your website fall under the definition of "news media" in FOIA; you have not presented any new information relevant to the nature of the medium itself as opposed to the content of the communications. Similarly, with respect to the existence of subscribers, you have not described a regular distribution of information to subscribing news media outlets that would qualify you as a "news service," as that term is

⁶The definition of "news media" also includes radio stations, television stations, television networks, community antenna television services, or persons or corporations engaged in making news reels or other motion picture news for public showing. Because you had not suggested that your website constitutes one of these types of media, we did not address these aspects of the definition. You also have not suggested that your website constitutes one of these types of media in connection with these Requests for Review.


May 27, 2015

Page 4

commonly understood. Accordingly, this office concludes again that you are not covered by the news media exception to the recurrent requester provisions of FOIA.

Because you do not fall within the exception for news media, we conclude that the University did not improperly treat you as a recurrent requester in connection with your FOIA requests. Accordingly, we have determined that no further action is warranted as to these matters. If you have any questions, please contact me at (217) 782-9078.

Very truly yours,


NEIL P. OLSON
Assistant Attorney General
Public Access Bureau

35187 35393 f no fi war univ

cc: *Via electronic mail*
Mr. Thomas P. Hardy
Executive Director and Chief Records Officer
University of Illinois
Office of University Relations
108 Henry Administration Building
506 South Wright Street, MC-370
Urbana, Illinois 61801
foia@uillinois.edu



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

November 8, 2019

Via electronic mail

Mr. Adam Chudzik
Norwood Park Watchdog
4252 North Octavia Avenue
Norridge, Illinois 60706
npwatchdog182@gmail.com

Via electronic mail

Ms. Sarah Buslik
Norridge School District 80
8151 West Lawrence Avenue
Norridge, Illinois 60706
sbuslik@norridge80.net

RE: FOIA Requests for Review – 2015 PAC 38860; 2015 PAC 39218

Dear Mr. Chudzik and Ms. Buslik:

On December 1, 2015, this office received Mr. Adam Chudzik's Request for Review (2015 PAC 38860) contesting the categorization of his November 13, 2015 Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2018)) request to the Norridge School District No. 18 (School District) as voluminous. The School District had responded that the request, which sought copies of all records pertaining to a property tax rate increase, was a voluminous request under section 2(h) of FOIA (5 ILCS 140/2(h) (West 2014)) and invited him to amend it so that it would no longer be voluminous. Mr. Chudzik argued that the request was made on behalf of a non-profit organization, Norwood Park Watchdog, and thus could not be treated as voluminous.

On December 1, 2015, Mr. Chudzik submitted an amended FOIA request to the School District seeking copies of "[e]-mails relating to the subject and / or body keywords 'referendum', 'tax', 'levy', 'county clerk', and 'election', from a period of 7/1/15 to the date" that

Mr. Adam Chudzik
Ms. Sarah Buslik
November 8, 2019
Page 2

the request was processed."¹ On December 23, 2015, this office received Mr. Chudzik's subsequent Request for Review (2015 PAC 39218) alleging that he had yet to receive a final response from the School District.

As to the first Request for Review, the School District asserted that "Norwood Park Watchdog" was not a non-profit organization within the meaning of section 2(h) of FOIA because it solely consisted of Mr. Chudzik, was not registered as a non-profit organization with the Secretary of State, and lacked indicia of an organization. Mr. Chudzik replied by arguing that FOIA does not define what a non-profit organization is, acknowledging that "Norwood Park Watchdog" was not incorporated.

Section 2(h) of FOIA provides, in relevant part: "'Voluminous request' does not include a request made by * * * non-profit * * * organizations if the principal purpose of the request is: (1) to access and disseminate information concerning news and current or passing events; (2) for articles of opinion or features of interest to the public; or (3) for the purpose of academic, scientific, or public research or education."

In 2012 Ill. Att'y. Gen. Op. No. 12-001, issued December 20, 2012, the Attorney General examined the definition of "non-profit organization" with respect to a provision in the Right to Privacy in the Workplace Act (820 ILCS 55/5(b) (West 2012)) that concerned such organizations. In that opinion, the Attorney General explained, in relevant part:

Neither the Act nor its rules define the term "non-profit organization." [Citation.] It is well established, however, that undefined statutory terms must be given their ordinary and popularly understood meaning. [Citation.] The term "'non-profit'" generally means "[n]ot seeking profit" (American Heritage Dictionary 847 (2nd coll. ed. 1982)) or "not conducted or maintained for the purpose of making a profit" (Webster's Third New International Dictionary 1538 (1993)). Similarly, the term "organization" refers to "any unified, consolidated group of elements; systematized whole; esp[ecially], *a*) a body of persons organized for some specific purpose, as a club, union, or society *b*) the administrative personnel or executive structure of a business[.]" (Italics in original.) Webster's New World Dictionary 1002 (2nd coll. ed. 1976). Giving the term "nonprofit organization" its ordinary and popularly understood meaning, a business, such as a hospital, that is not conducted or maintained for the purpose of

¹E-mail from [Adam Chudzik] to [Sarah Buslik] (December 1, 2015).

Mr. Adam Chudzik
Ms. Sarah Buslik
November 8, 2019
Page 3

making a profit may be a "nonprofit organization" to which subsection 5(b) of the Act applies. 2012 Ill. Att'y. Gen. Op. No. 12-001, at 4.

Here, likewise giving the term "non-profit organization" its ordinary and popularly understood meaning, a "non-profit organization" for purposes of section 2(h) of FOIA is a *body of persons organized* for some specific purpose that does not seek profit. Generally, a "non-profit organization" in the State of Illinois, as opposed to an informal civic or community group, has filed articles of incorporation with the Illinois Secretary of State in accordance with the General Not For Profit Corporation Act of 1985 (805 ILCS 105/101.01 *et seq.* (West 2018)) and otherwise met the requirements of that Act. This office has received no indication that "Norwood Park Watchdog" consists of a body of persons or has taken steps to formally organize as a non-profit. Accordingly, this office concludes that "Norwood Park Watchdog" was not a non-profit organization within the meaning of section 2(h) of FOIA at the time of the request.

With regard to Mr. Chudzik's subsequent Request for Review, the School District replied to his amended request on December 9, 2015, inaccurately contending that he had declined to narrow his November 13, 2015, request and stating that it was extending its time to respond by ten business days. On February 9, 2016, this office sent a copy of Mr. Chudzik's Request for Review to the School District seeking an explanation of its handling of his amended request. On September 20, 2016, this office followed up with the School District, again asking it to respond, but did not receive an answer. This office has also not heard from Mr. Chudzik about the file since that date. If it has not already done so, this office requests that the School District search for and provide Mr. Chudzik with copies of e-mails responsive to that narrowed request. This office is closing the file without further action or a formal determination. 5 ILCS 140/9.5(f) (West 2018) (granting this office discretion in resolving Requests for Review).

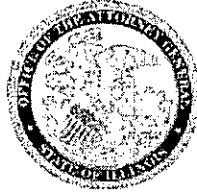
If you have any questions, please contact this office at the Chicago address listed at the bottom of the first page of this letter.

Very truly yours,



TERESA LIM
Assistant Attorney General
Public Access Bureau

38860 f 2h vol req proper sd
39218 f dsc sd



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 16, 2016

Via electronic mail

[REDACTED]

Via electronic mail

[REDACTED]

Via electronic mail

[REDACTED]

Via electronic mail

[REDACTED]

Via electronic mail

Mr. Brian P. Crowley
FranczekRadelet
309 South Wacker Drive, Suite 3400
Chicago, Illinois 60606
bpc@franczek.com

RE: Request for Review – 2016 PAC 43683; 2016 PAC 43691; 2016 PAC 43696; 2016 PAC 43886; 2016 PAC 43965

Dear [REDACTED], [REDACTED], [REDACTED], [REDACTED], and Mr. Crowley:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2014)). Because the Public Access Bureau has received five Requests for Review alleging similar violations of FOIA, we have consolidated these matters for this determination. For the reasons that follow, the Public Access Bureau concludes that Community Consolidated School District 62 (District) is required to substantively

[REDACTED]
Mr. Brian P. Crowley
November 16, 2016
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respond to FOIA requests submitted by [REDACTED], [REDACTED], [REDACTED]
and [REDACTED]

BACKGROUND

2016 PAC 43683

On August 8, 2016, [REDACTED] submitted a FOIA request to the District seeking all records concerning an incident that occurred in a restroom in the fall of 2013 involving [REDACTED] and a teacher. On August 11, 2016, the District requested that [REDACTED] telephone the District to confirm that the FOIA request was a "legitimate FOIA request" and stated that if [REDACTED] did not call by August 15, 2016, the District "will assume that these are not legitimate FOIA requests and are withdrawn."¹ The District also extended the time for response by 5 business days pursuant to sections 3(e)(ii), 3(e)(v), and 3(e)(vi) (5 ILCS 140/3(e)(ii), (e)(v), (e)(vi) (West 2014)). On August 23, 2016, [REDACTED] submitted a Request for Review to the Public Access Bureau contesting the denial of his FOIA request. On August 31, 2016, the Public Access Bureau sent copies of the Request for Review to the District and requested that it respond to the Request for Review. On September 7, 2016, the District provided this office with a written response. The District stated that it "has a strong suspicion that the FOIA request is not from a [REDACTED], but is instead from a [REDACTED], who has created alias email addresses or has requested other individuals to make FOIA requests on her behalf."² The District requested that this office "allow the School District to disregard these FOIA requests as not legitimate FOIA requests (which is the School District's strong preference) or, in the alternative, allow the School District to consider these requests as requests of [REDACTED]"³

2016 PAC 43691

¹E-mail from Margaret Goodchild, FOIA Officer, Community Consolidated School District 62, to [REDACTED] (August 11, 2016).

²Letter from Brian P. Crowley, FranczekRadelet, to Matt Hartman, Assistant Attorney General, Public Access Bureau (September 7, 2016), at 1.

³Letter from Brian P. Crowley, FranczekRadelet, to Matt Hartman, Assistant Attorney General, Public Access Bureau (September 7, 2016), at 2.

[REDACTED]

Mr. Brian P. Crowley
November 16, 2016
Page 3

On August 7, 2016, [REDACTED] submitted a FOIA request to the District seeking all e-mails from October 15, 2013, to December 15, 2013, between [REDACTED] and the Teachers' Retirement System of Illinois concerning [REDACTED]. On August 11, 2016, the District requested that [REDACTED] contact the District and confirm that his FOIA request was a "legitimate FOIA request[.]" The District also extended the time for response by 5 business days. On August 23, 2016, [REDACTED] submitted a Request for Review alleging that the District told him in a phone conversation that it would provide him with the records he requested by August 22, 2016, but he never received the records. On August 31, 2016, this office sent a copy of [REDACTED] Request for Review to the District, and on September 7, 2016, the District provided this office with a written response. The District's response asserted that [REDACTED] never contacted the District. The District also asserted that it believed that the request was not from [REDACTED] but was made by or on behalf of [REDACTED].

2016 PAC 43696

On August 7, 2016, [REDACTED] submitted a FOIA request to the District seeking various reports sent to Teachers' Retirement System for school years 2013-2014 and 2014-2015. On August 11, 2016, the District requested that [REDACTED] contact the District to verify that her FOIA request was a "legitimate FOIA request[.]" The District also extended the time for response by 5 business days. On August 24, 2016, [REDACTED] submitted a Request for Review to the Public Access Counselor stating that the District had told her that it would provide her with the records by August 22, 2016. On August 24, 2016, this office received an e-mail from the District asserting that "[t]he recent FOIA request from [REDACTED] was in concert with several other FOIA requests from other unique email addresses, but all of the FOIA requests were very similar in tone and content to FOIA requests received from [REDACTED]."⁴ On August 31, 2016, this office sent a copy of [REDACTED] Request for Review to the District. The District stated that it never received confirmation from [REDACTED] that the request was legitimate and did not respond to the request because it assumed it was not a legitimate request.

2016 PAC 43886

On August 24, 2016, [REDACTED] submitted a FOIA request to the District seeking copies of all FOIA requests similar to her request in 2016 PAC 43696 and copies of the District's responses to the other similar FOIA requests. On September 6, 2016, [REDACTED] submitted a

⁴E-mail from Margaret Goodchild, FOIA Officer, Community Consolidated School District 62, to Public Access Counselor, Office of the Attorney General (August 24, 2016).

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Page 4

Request for Review to the Public Access Bureau alleging that the District did not respond to her FOIA request. On September 13, 2016, the Public Access Bureau sent the District a copy of [REDACTED] Request for Review and asked the District to respond. On September 14, 2016, the District responded by incorporating its responses to 2016 PAC 43658, 2016 PAC 43683, 2016 PAC 43691, and 2016 PAC 43696.

2016 PAC 43965

On August 24, 2016, [REDACTED] submitted a FOIA request to the District seeking, among other things, copies of all records concerning the District sending individuals or officials to the home of one of the District's employees. On September 9, 2016, [REDACTED] submitted a Request for Review to the Public Access Bureau alleging that the District did not respond to her FOIA request. On September 15, 2016, the Public Access Bureau sent the District a copy of [REDACTED] Request for Review and asked the District to respond. On September 15, 2016, the District responded in writing incorporating its responses to 2016 PAC 43658, 2016 PAC 43683, 2016 PAC 43691, and 2016 PAC 43696.

DETERMINATION

"It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act." 5 ILCS 140/1 (West 2014). Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2014)), "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." Section 3(a) of FOIA (5 ILCS 140/3(a) (West 2014)) provides that "[e]ach public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Sections 7 and 8.5 of this Act."

In this case, the District extended the time for response to each FOIA request by 5 business days pursuant to section 3(e) of FOIA, but did not subsequently respond to the requesters. Instead, as part of its notice of extension, the District asked each of the requesters to telephone the District so that the District could verify whether the FOIA requests were "legitimate." The District stated that it believed that the requests may not be legitimate because it received requests for similar information from [REDACTED]. The District also advised the requesters that if they did not contact the District, then the District would consider the requests not to be legitimate and withdrawn. The District claimed that none of the requesters responded to its requests for verification and, therefore, it should be permitted to either disregard the

[REDACTED]

Mr. Brian P. Crowley
November 16, 2016
Page 5

requests or consider the requests as requests made by [REDACTED] for the purpose of the recurrent requester provision in section 3.2 of FOIA (5 ILCS 140/3.2 (West 2014)).

The procedures for responding to a FOIA request are clear. Section 3(d) of FOIA (5 ILCS 140/3(d) (West 2014)) provides that "each public body shall, promptly, either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section." If a public body wishes to extend the time for response pursuant to section 3(e) of FOIA, it "shall, within 5 business days after receipt of the request, notify the person making the request of the reasons for extension and the date by which the response will be forthcoming." 5 ILCS 140/3(f) (West 2014). Section 3(f) of FOIA further provides that failure to respond after taking an extension constitutes a denial of the request.

Further, FOIA does not prohibit a person from submitting a request anonymously or under a pseudonym. Ill. Att'y Gen. PAC Req. Rev. Ltr. 11520, issued July 20, 2011, at 4 ("FOIA does not require that requests include the name or identity of the requester."). Nor does FOIA require a requester to contact a public body by telephone to confirm his or her identity in order to receive a response. Additionally, no provision of FOIA permits a public body to treat a FOIA request as withdrawn because the public body suspects that a request may have been submitted under a pseudonym or on behalf of another person.

Because FOIA provides an extended time period for responding to a request by a recurrent requester, however, this office recognizes that a public body has a legitimate interest in determining whether a request was submitted by or on behalf of a person who meets the criteria of a "recurrent requester."⁵ Notably, section 2(b) of FOIA (5 ILCS 140/2(b) (West 2015 Supp.)) defines "person" as "any individual, corporation, partnership, firm, organization or association,

⁵Section 2(g) of FOIA (5 ILCS 140/2(g) (West 2015 Supp.)) defines a "recurrent requester" as:

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

[REDACTED]

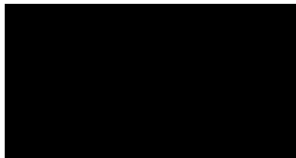
Mr. Brian P. Crowley
November 16, 2016
Page 6

acting individually *or as a group*." (Emphasis added.) This office has previously determined that requests submitted for a common purpose by individuals acting as a group constitute a single "person" under section 2(b) of FOIA. *See*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 33188, issued January 30, 2015. In that matter, a recurrent requester had made a blog posting asking readers to submit FOIA requests using pseudonyms for specific records on his behalf to avoid the 21 business day recurrent requester response time. A reader of the blog submitted a FOIA request using a pseudonym and the public body responded that it would provide a response to the request within 21 business days. On review, this office determined that the public body properly treated the request as a request from a recurrent requester because the blog post gave specific instructions on how and what to request and because the requester admitted that the FOIA request was inspired by the blog post.

Thus, if a public body has reasonable grounds to believe that a request was submitted by a recurrent requester under a pseudonym or on behalf of a person who qualifies as a recurrent requester, it may seek clarification of the requester's identity. If the requester declines to verify his or her identity, the public body must still respond, either by responding to the FOIA request in the normal time period, or by treating the request as a request by a recurrent requester. Assuming that the District did have reasonable grounds to believe the five requests at issue in this matter were submitted by [REDACTED] under a pseudonym or on behalf of [REDACTED], the District should have notified the requesters within 5 business days of receiving the requests that it was treating the requests as requests from a recurrent requester, why it was treating the requests as such, and that a response would be provided in 21 business days. *See*, 5 ILCS 140/3.2(b) (West 2014)).

This office makes no findings about whether the District had reasonable grounds to believe that the five requests at issue in this matter were submitted by or on behalf of a recurrent requester. However, even if it did have reasonable grounds for such a belief, FOIA did not authorize the District to treat the requests as withdrawn when it was unable to verify the identity of the requesters. Because the facts are undisputed that the District extended the time for response pursuant to section 3(e) of FOIA but did not respond within the time permitted for extension, the District violated section 3(f) of FOIA.

In accordance with the conclusions expressed in this determination, this office requests that the District take immediate and appropriate action to provide [REDACTED] with all responsive records that the District possesses, subject only to permissible redactions under section 7 of FOIA (5 ILCS 140/7 (West 2015 Supp.)), as amended by Public Act 99-642, effective July 28, 2016). If any records



Mr. Brian P. Crowley
November 16, 2016
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are redacted or withheld, the District must provide a written notice of denial that includes "a detailed factual basis for the application of any exemption claimed[.]" 5 ILCS 140/9(a) (West 2014). This office reminds the District that under section 3(f) of FOIA a public body that does not respond to a request within the time permitted for extension may not charge a fee for copies or treat the request as unduly burdensome under section 3(g) of FOIA (5 ILCS 140/3(g) (West 2014)).

The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. This letter serves to close these matters. If you have any questions, please contact me at (217) 782-9054 or the Springfield address on the first page of this letter.

Very truly yours,



MATT HARTMAN
Assistant Attorney General
Public Access Bureau

43683 43691 43696 43886 43965 f 3f no pb response sd



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 2, 2016

Via electronic mail



RE: FOIA Request for Review – 2016 PAC 44649

Dear [REDACTED]

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2014)). For the reasons that follow, the Public Access Bureau concludes that no further action is warranted as to this matter.

On October 13, 2016, you submitted a FOIA request to the City of Collinsville (City) seeking a digital copy of City cellular telephone bills for the months of July, August, and September, 2016, and copies of all City credit card expenditures and receipts for the same period. You asserted that you are "a member of the press."¹

On October 20, 2016, the City responded by stating that it had examined your "press credentials" issued by the website CFAPA.org and that it had determined that you are not a "news media" requester as defined by section 2(f) of FOIA (5 ILCS 140/2(f) (West 2015 Supp.)). Therefore, the City stated that it would continue to classify you as a recurrent requester under section 3.2 of FOIA (5 ILCS 140/3.2 (West 2014)) and respond to your requests within the time period allowed for recurrent requesters.

In this Request for Review, you contend that the City has misinterpreted section 2(f) of FOIA because you "regularly and periodically electronically publish [your] FOIA findings with commentary for residents; for many it is the only way they get local news since there is not a local community paper covering local municipal city government."² You also

¹E-mail from [REDACTED] to Kimberly Wasser (October 13, 2016).

²E-mail from [REDACTED] to Public Access [Bureau] (October 21, 2016).

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argue that Internet journalists should be treated like print media, citing the New Hampshire Supreme Court's decision in *Mortgage Specialists, Inc. v. Implode-Explode Heavy Industries, Inc.*, 160 N.H. 227, 999 A.2d 184 (N.H. 2010).

On October 26, 2016, an Assistant Attorney General in the Public Access Bureau asked you to provide an example of your electronic publications. In response, you furnished addresses of the websites www.collinsvillemalcontents.com and www.madisontaxpayer.com. On November 3, 2016, you also sent this office a photograph of press credentials issued to you by the Madison County Sheriff's Office. During a telephone conversation with an Assistant Attorney General on November 3, 2016, you stated that you published www.collinsvillemalcontents.com, and you and other members of the public posted information on www.madisontaxpayer.com.

DETERMINATION

Section 2(g) of FOIA (5 ILCS 140/2(g) (West 2015 Supp.)), defines a "recurrent requester" as:

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. ***For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition*** when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. (Emphasis added.)

Section 2(f) defines "news media" in relevant part as a "newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format[.]"

The Public Access Bureau has previously determined that the plain language of section 2(f) limits the definition of "news media" to a medium such as a "newspaper," "periodical," or a "news service," or an electronic version thereof.³ See Ill. Att'y Gen. PAC Req. Rev. Ltr. 35187, 35393, issued May 27, 2015, at 3. With respect to a self-published website, this office has concluded that the statutory definition requires more than simply establishing a website as a means to communicate:

Merely disseminating information or criticism electronically though a website, or via e-mail, does not meet the statutory definition of "news media." If it did, then any person who chose to post an opinion or comment on a matter of public interest electronically would become a news medium, which was clearly not the intent of the General Assembly when it enacted the exception. Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, issued February 13, 2015, at 4.

The Illinois appellate courts have not analyzed whether the statutory definition of "news media" in FOIA or an analogous statutory definition such as "news medium" contained in the "reporter's privilege act"⁴ may apply to individuals or entities that self-publish material on the Internet. However, courts in other jurisdictions have recognized that "self-appointed journalists or entities" who claim statutory protection under reporter shield laws as media members "require more scrutiny" than traditional newspaper or television reporters. *Too Much Media, LLC v. Hale*, 206 N.J. 209, 242, 20 A.3d 364, 383 (N.J. 2011).

In *Too Much Media*, the New Jersey Supreme Court reviewed whether the definition of "news media" contained in New Jersey's reporter shield law included blogger postings on an on-line bulletin board. The shield law defined "news media" as "newspapers, magazines, press associations, wire services, radio, television or other similar printed, photographic, mechanical or electronic means of disseminating news to the general public." *Too*

³The definition of "news media" also includes radio stations, television stations, television networks, community antenna television services, or persons or corporations engaged in making news reels or other motion picture news for public showing. This Request for Review does not suggest that either online publication constitutes one of these types of media.

⁴Section 8-902(b) of the Code of Civil Procedure (735 ILCS 5/8-902(b) (West 2014)) defines "news medium" as:

any newspaper or other periodical issued at regular intervals whether in print or electronic format and having a general circulation; a news service whether in print or electronic format; a radio station; a television station; a television network; a community antenna television service; and any person or corporation engaged in the making of news reels or other motion picture news for public showing.

Much Media, 206 N.J. at 229, 20 A.3d at 376. The court focused its analysis on whether the material was "similar" to those produced by traditional media sources, and concluded that the blogger had not demonstrated that she was "news media" because the posted content was unedited personal commentary that was not sufficiently similar to a newspaper or other traditional media. *Too Much Media*, 206 N.J. at 234-37, 20 A.3d at 378-80.

Similarly, in *Obsidian Finance Group, LLC v. Cox*, CV-11-57-HZ, 2011 WL 5999334, at *1 (D. Or. Nov. 30, 2011), a federal district court rejected an internet blogger's claim that she was protected under the Oregon reporter shield law, which defined a "medium of communication" as "any newspaper, magazine or other periodical, book, pamphlet, news service, wire service, news or feature syndicate, broadcast station or network, or cable television system." The court identified several factors relevant to its determination that the blogger was not a member of the media: (1) education in journalism; (2) credentials or proof of an affiliation with a recognized news entity; (3) proof of adherence to journalistic standards such as editing, fact-checking, or disclosures of conflicts of interest; (4) keeping notes of conversations and interviews conducted; (5) mutual understanding or agreement of confidentiality with sources; (6) creation of an independent product rather than assembling writings and posting of others; and (7) contacting both sides of a story. *Obsidian Finance Group*, 2011 WL 5999334, at *5. The court concluded that "[w]ithout evidence of this nature, defendant is not 'media.'"

In contrast, in *O'Grady v. Superior Court*, 139 Cal. App. 4th 1423, 44 Cal. Rptr. 3d 72 (Cal. Ct. App. 2006), the California Court of Appeals held that the "reporter shield" in the California Constitution and a related statute protected two websites from being held in contempt of court based on the websites' similarities to the types of media specified in those constitutional and statutory provisions. Both provisions contained identical language that extended protection to a "publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed," and a "radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed[.]" Cal. Const. Art. 1, §2(b); Cal. Evid. Code § 1070(a) (West 2006). The court emphasized that the websites "reflect a kind and degree of editorial control that makes them resemble a newspaper or magazine far more closely than" web-based bulletin boards and reasoned that "the open and deliberate publication in a news-oriented Web site of news gathered for that purpose by the site's operators * * * appears conceptually indistinguishable from publishing a newspaper[.]" *O'Grady*, 139 Cal. App. 4th at 1450, 1459, 44 Cal. Rptr. 3d at 91, 99.

As you cited, the New Hampshire Supreme Court also held that a website was subject to its constitutional newsgathering privilege. *Mortgage Specialists*, 160 N.H. at 234, 999 A.2d at 189. Notably, the court was construing the provision of the New Hampshire Constitution (N.H. Const. Part 1, Art. 22)) that generally provides for freedom of speech and freedom of the press without defining covered press entities or otherwise limiting its application to certain types

December 2, 2016

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of media, as section 2(f) of FOIA does. In addition, the court accepted the trial court's findings that the website at issue was "a legitimate publisher of information and a member of the press." *Mortgage Specialists*, 160 N.H. at 233-34, 999 A.2d at 189. Accordingly, *Mortgage Specialists* is not instructive on the issue of how section 2(f) applies to the websites at issue in this matter.

As described in the other cases discussed above, in order to be considered a member of the news media covered by reporter shield statutes, an individual or entity that self-publishes information on the Internet generally must demonstrate some adherence to recognized journalistic standards such as editorial oversight or the creation of original content similar to that of traditional media. These courts' rationales are consistent with the plain statutory language of section 2(f) of FOIA that limits its application to a "newspaper," "periodical" or "news service" and their electronic versions. The General Assembly has not expanded the definition in FOIA to include other individuals or entities apart from those traditional media sources and their electronic versions.

This office has reviewed the websites you provided. The website www.collinsvillemalcontents consists of links to public records that it appears were obtained through FOIA or public court files. The website www.madisontaxpayer.com consists of links to news publications. Neither website contains original content or credits particular authors with any material posted on them. Given the absence of features such as editorial oversight and original content, the websites do not resemble a "newspaper," "periodical," or "news service" in an electronic form.

You also have provided evidence of both your credentials and education. As described by the City, the website CFAPA.org and its operator the Constitution First Amendment Press Association also do not appear to be news media, but rather a means to issue press "credentials" to those who request them via the website. The press "credentials" issued by the Madison County Sheriff's Office identifies that you are associated with the www.madisontaxpayer.com website discussed above. Neither set of "credentials," however, demonstrates a connection with one of the "news media" described in section 2(f) of FOIA. Likewise, your degree in mass communications, standing on its own, does not demonstrate you are currently working as a member of the "news media."

[REDACTED]
December 2, 2016

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Accordingly, this office concludes that you are not exempted by the news-media exception from the recurrent requester provision of FOIA, and that no further action is warranted as to this matter. If you have any questions, please contact me at (217) 782-9078.

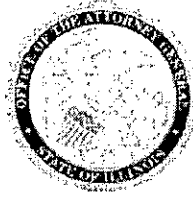
Very truly yours,

[REDACTED]

NEIL P. OLSON
Deputy Public Access Counselor
Assistant Attorney General, Public Access Bureau

44649 f no fi war mun

cc: *Via electronic mail*
Ms. Kim Wasser
Freedom of Information Officer
City of Collinsville
125 South Center Street
Collinsville, Illinois 62234
kwasser@collinsvilleil.org

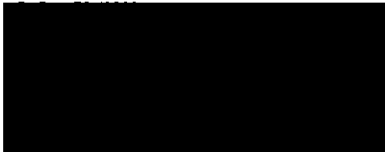


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 28, 2017

Via electronic mail



Via electronic mail

Mr. Russell E. Matson
Police Records Supervisor
Elgin Police Department
151 Douglas Avenue
Elgin, Illinois 60120
matson_r@cityofelgin.org

RE: FOIA Requests for Review – 2017 PAC 47422; 47571; 47800; 48007;
48008

Dear [REDACTED] and Mr. Matson:

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 2016)). For the reasons that follow, the Public Access Bureau concludes that Elgin Police Department (Police Department) did not improperly designate [REDACTED] as a recurrent requester in each of the above-referenced files.

On March 12, 2017, [REDACTED] submitted a FOIA request to the Police Department seeking copies of any and all records concerning the enforcement of Federal Immigration laws or policy from any law enforcement agency, Immigration and Customs Enforcement, or Homeland Security. On March 20, 2017, the Police Department notified [REDACTED] that, because he was a recurrent requester, it would provide its initial response in 15 business days. On April 14, 2017, the Police Department provided Mr. O'Neill with that response. On April 17, 2017, [REDACTED] submitted a Request for Review (2017 PAC 47422),

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which, he then clarified, was intended to contest the Police Department's assertion that he qualified as a recurrent requester.

██████████ subsequently submitted additional FOIA requests to the Police Department and corresponding Requests for Review, all of which likewise contested his designation as a recurrent requester. This office has consolidated these files for purposes of this determination because they involve the same parties and same issue.

This office sent copies of ██████████'s first two Requests for Review to the Police Department and asked for a detailed explanation as to why it designated ██████████ as a recurrent requester. On May 31, 2017, the Police Department provided a detailed accounting of nine FOIA requests submitted by ██████████ between October 4, 2016, and October 10, 2016, including copies of those requests and its responses. The Police Department further explained that on October 18, 2016, it had informed ██████████ that he qualified as a recurrent requester. On June 20, 2017, ██████████ submitted a reply, asserting that he was exempt from the recurrent requester designation because he qualifies as news media.

In a July 19, 2017, telephone conversation with an Assistant Attorney General in the Public Access Bureau, ██████████ confirmed that he contests only his designation as a recurrent requester by the Police Department.

DETERMINATION

Section 2(g) of FOIA (5 ILCS 140/2(g) (West 2016)) provides, in pertinent part:

"Recurrent requester", as used in Section 3.2 of [FOIA], means a person that, *in the 12 months immediately preceding the request*, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) *a minimum of 7 requests for records within a 7-day period*. For purposes of this definition, *requests made by news media and non-profit*, scientific, or academic organizations *shall not be considered in calculating the number of requests made in the time periods in this definition* when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. (Emphasis added.)

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The Police Department has documented that ██████████ submitted nine separate requests for records in the 7-day period from October 4, 2016, through October 10, 2016. Section 2(g) of FOIA unambiguously provides that a requester who has already submitted seven requests for records within a 7-day period becomes a recurrent requester upon the submission of one further request to the same public body. Thus, under the plain language of section 2(g) of FOIA, ██████████ qualified a recurrent request when he submitted his eighth FOIA request on October 10, 2016, unless he falls under one of the exceptions to that provision.

In his June 20, 2017, reply to this office, ██████████ argued that his requests met the news media exception in section 2(g)¹ because: (1) his website, www.elginet.com, "has existed as a media information service" for 21 years; (2) his Youtube channel has over 650,000 views and has covered matters in and around Elgin; (3) he has accumulated a Facebook audience of over 2,500 people in two years; (4) his "Media Photography page" was created at least ten years ago and has over 10 million views; and (5) he won an award for one of his photographs in 2010.² However, ██████████ also stated:

In the past, the city has *not* required me to make FOIA requests *as* Elginet Media. I can however, resubmit these FOIA requests *as* Elginet Media this will relieve any confusion on their part but I feel they will then simply deem them as "Duplicate Requests". (Emphasis in original.)^[3]

Based on this office's review, the October 2016, requests were not identified as being from a "news media" entity, or assert that the principal purpose of the requests was among the three principle purposes that are excluded from the definition of "recurrent requester" in section 2(g) of FOIA. Elginet Media does not appear to be a traditional news media outlet such as a newspaper and there is no indication that the Police Department was aware that ██████████ sought Elginet Media to be recognized as news media in order to avoid being treated as a

¹Section 2(f) of FOIA (5 ILCS 140/2(f) (West 2016)) provides:

"News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

²Letter from ██████████ to Christopher Boggs, Assistant Attorney [General], Public Access Bureau (June 20, 2017), at 1-2.

³Letter from ██████████ to Mr. Christopher Boggs, Assistant Attorney [General], Public Access Bureau (June 20, 2017), at 2.

[REDACTED]
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recurrent requester. Moreover, [REDACTED] only claimed that he qualified as news media in his reply in these matters, rather than in his FOIA requests or in his Requests for Review. Therefore this office did not ask the Police Department to address whether [REDACTED] requests met the news media exception. Because [REDACTED] did not identify his requests as being from a news media entity for a purpose excluded from definition of "recurrent requester" and because neither his FOIA requests nor his Requests for Review claim that his requests qualified as being from news media, this office is unable to conclude that the Police Department improperly designated him as a recurrent requester in connection with his FOIA requests in these matters.

The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. This letter serves to close these files. If you have any questions, please contact me at (217) 785-7438 or at the Springfield address listed on the first page of this letter.

Very truly yours,

[REDACTED]
CHRISTOPHER R. BOGGS
Assistant Attorney General
Public Access Bureau

47422 47571 47800 48007 48008 consol f 2g recurrent req proper pd



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

April 2, 2019.

Via electronic mail



RE: FOIA Request for Review – 2019 PAC 56925

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 2016)). For the reasons that follow, the Public Access Bureau concludes that no further action is warranted in this matter.

On January 3, 2019, you delivered twelve FOIA requests to Valley View Community Unit School District 365U (District) seeking copies of various records. On January 10, 2019, the District notified you in writing that it had determined that you qualify as a "recurrent requester" pursuant to section 2(g)(iii) of FOIA (5 ILCS 140/2(g)(iii) (West 2016)), because you had submitted to the same public body a minimum of seven requests for records within a seven-day period. The District further stated that it would initially respond to the FOIA requests within 21 business days of receipt, as permitted by section 3.2 of FOIA (5 ILCS 140/3.2 (West 2016)). On February 4, 2019, the District responded to all twelve requests, making available to you electronic copies of records responsive to certain requests with redactions, asserting that the District was unable to locate records responsive to other requests, and notifying you that your request for security camera footage was unduly burdensome, as defined in section 3(g) of FOIA (5 ILCS 140/3(g) (West)), and requesting that you narrow that request.

On March 13, 2019, you furnished all the required information to submit a Request for Review to the Public Access Bureau. Your Request for Review argues that the District improperly designated the twelve requests you delivered on January 3, 2019, as requests submitted by a recurrent requester. You asserted the requests were submitted on behalf of three separate parties, that each request explicitly identified the responsible party, and that the District violated FOIA by failing to recognize these parties as independent entities.

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Section 2(g) of FOIA (5 ILCS 140/2(g) (West 2016)), defines a "recurrent requester" as:

a person that, in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. (Emphasis added.)

If the twelve requests submitted on January 3, 2019, are deemed to have been submitted by the same "person," then that person meets the definition of a recurrent requester so long as that "person" is not a member of the news media or a non-profit, scientific, or academic organization submitting the request for one of the purposes outlined in section 2(g).

Section 2(b) of FOIA (5 ILCS 140/2(b) (West 2016) defines "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." Your Request for Review argues that several of the twelve FOIA requests you delivered on January 3, 2019, were submitted on behalf of two associations—the Will County Public Records Group and the Bolingbrook Transparency Group—and that by attributing those FOIA requests to you personally, the District improperly failed to recognize these groups as "persons" who have the authority to submit FOIA requests on their own behalf.

Four of the FOIA requests you delivered to the District on January 3, 2019, were submitted on your behalf—your name is listed on the top of the request, you state in the request "I hereby request" certain records, and you signed the requests. Four of the requests state that they are submitted on behalf of the Bolingbrook Transparency Group—the requests state that "we hereby request" certain records, and the name of the Bolingbrook Transparency Group is listed at the top of the requests. However, your name is listed along with the group's name and you signed the requests. Two of the requests state that they are submitted on behalf of the Will County Public Records Group—the requests state that "we hereby request" certain records, and the name of the Will County Public Records Group is listed at the top of the requests. Again however, your name is listed along with the group's name and you signed the requests. Finally, two other requests state that they are submitted on behalf of the Bolingbrook Transparency

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Group. Nevertheless, the Will County Public Records Group is listed at the top of these two requests instead of the Bolingbrook Transparency Group, and again, your name is listed along with the group's name and you signed the requests.

In this matter, you signed each of the twelve FOIA requests, you were listed as the contact person for each of the twelve requests, and the same telephone number that was listed on your Request for Review to this office was listed at the top of each request. Moreover, Exhibits A and B to your Request for Review are documents you stated you submitted to the District "whereupon the members of the aforementioned groups declare their association with such groups by way of signature."¹ Those documents demonstrate that each group had two declared members at the time of the submission of the FOIA requests, and that you were one of the two members of each group. The documents indicate that both groups are intended to promote transparency in government.

A statute should not be construed in a way that would defeat its purpose "or yield an absurd or unjust result." *Phoenix Bond & Indemnity Co. v. Pappas*, 194 Ill. 2d 99, 107 (2000). Comments during the Senate floor debate by one of the co-sponsors for House Bill 1716, which as Public Act 97-579 added the recurrent requester provision in section 2(g) to FOIA, indicate that the legislation was intended to ease the strain on public bodies that had been heavily burdened by large numbers of FOIA requests:

The sweeping FOIA law that was put into place was outstanding in principle, outstanding conceptually, but, frankly, the pendulum had swung too far and became very impractical for many municipalities and local units of government to maintain. And, in fact, many local units of government were overwhelmed by commercial FOIA that got in the way of legitimate citizen inquiries, and indeed it overwhelmed the system and taxed the taxpayers because they were -- under a timeline that was entirely unreasonable. Remarks of Sen. Sandack, May 30, 2011, Senate Debate on House Bill 1716, at 75.

If an individual who seeks records from a public body on his or her own behalf could avoid being deemed a recurrent requester by attributing additional requests to alleged organizations, the General Assembly's intent of providing relief to public bodies burdened by large numbers of requests by the same persons would be frustrated. It would be absurd to construe sections 2(b) and 2(g) of FOIA in a manner that undermines the General Assembly's intent by enabling an individual to avoid being treated as a recurrent requester despite submitting the requisite number of requests to qualify as a recurrent requester. For these reasons, the Public

¹Letter from ██████████ to Sarah Pratt, Public Access Counselor, Office of the Attorney General, State of Illinois, at 2 (February 20, 2019).

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Access Bureau determines that the twelve requests you delivered on January 3, 2019, were submitted by a single "person."

In your Request for Review, you also declare "that the principle purpose of my FOIA requests to [the District] is to access and disseminate information concerning news and current events," that you use a social media account to do so.² You therefore request that this office consider whether this activity qualifies you for exemption from the recurrent requester designation. As quoted above, section 2(g) of FOIA states that "requests made by news media and non-profit, scientific, or academic organizations" for the one of these purposes outlined in that section shall not qualify as requests made by a recurrent requester.

First, we note that none of the twelve requests at issue in this Request for Review assert that the individual or group submitting the request is a member of the news media or a non-profit, scientific, or academic organization, or assert that the principal purpose of the requests was among the three principle purposes that are excluded from the definition of "recurrent requester" in section 2(g) of FOIA. Consequently, the District was unable to consider the representation made to this office when making its own determination as to whether the requests qualified as requests submitted by a recurrent requester.

Second, section 2(f) of FOIA (5 ILCS 140/2(f) (West 2016)) defines "news media" in relevant part as a "newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format[.]" In the context of self-published websites purporting to be "news media," this office has opined that the statutory definition of "news media" requires more than simply disseminating information through a website or e-mail:

Merely disseminating information or criticism electronically though a website, or via e-mail, does not meet the statutory definition of "news media." If it did, then any person who chose to post an opinion or comment on a matter of public interest electronically would become a news medium, which was clearly not the intent of the General Assembly when it enacted the exception. Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, issued December 2, 2016, at 3 (quoting Ill. Att'y Gen. PAC Req. Rev. Ltr. 33323, issued February 13, 2015, at 4).

In the absence of Illinois law on how to interpret the term "news media," this office has found cases from other jurisdictions interpreting similar statutory definitions to be persuasive. Those cases hold that "an individual or entity that self-publishes information on the

²E-mail from ██████████ to Public Access (February 20, 2019).

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Internet generally must demonstrate some adherence to recognized journalistic standards such as editorial oversight or the creation of original content similar to that of traditional media" in order to be considered "news media." Ill. Att'y Gen. PAC Req. Rev. Ltr. 34653, issued April 4, 2017, at 5-6; Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, at 5. We further observed that "[t]he General Assembly has not expanded the definition in FOIA to include other individuals or entities apart from those traditional media sources and their electronic versions." Ill. Att'y Gen. PAC Req. Rev. Ltr. 44649, at 5.


This office has reviewed the social media webpage linked in your e-mail to this office, which is a Twitter page associated with the handle @BolingbrookCom1. The account appears to have tweeted five times before the submission of the Request for Review, with each tweet displaying a copy of a document or letter along with a one- to three-sentence explanation of the meaning of the document. These tweets are not original content or links to original content compiled by journalists using recognized journalistic standards, but instead are images of documents with short descriptions of those documents. The @BolingbrookCom1 twitter page therefore lacks the essential components of a "newspaper," "periodical" or "news service" included in FOIA's definition of "news media." Your use of this social media page to disseminate information to the general public does not qualify you for exemption from the "recurrent requester" provisions in FOIA.³

Accordingly, we conclude that the District did not violate FOIA by treating your FOIA requests as requests submitted by a recurrent requester in accordance with section 2(g) of FOIA.

In footnote 8 of your Request for Review, you allege that on February 8, 2019, you personally attempted to collect the records compiled by the District in response to the January 3, 2019, FOIA requests and pay the asserted cost of the recording medium upon which the District copied the records, but that the District refused to accept your cash payment and continued to withhold the responsive materials on that basis. You request that this office "address the appropriateness of this action in its adjudication of this matter."⁴ Exhibit E to your Request for Review is a Romeoville Police Department incident report, which states that you attempted to pay the costs of your FOIA request in part with pennies. Based upon the materials you submitted and, pursuant to section 9.5(f) of FOIA (5 ILCS 140/9.5(f) (West 2016)), which permits the Attorney General to exercise his discretion to resolve a Request for Review "by a means other than the issuance of a binding opinion," we have determined that no further inquiry is warranted on this allegation.

³It is also unclear from @BolingbrookCom1's Twitter page whether it is associated with you personally, the Bolingbrook Transparency Group, or the Will County Public Records Group.

⁴Letter from ██████████ to Sarah Pratt, Public Access Counselor, Office of the Attorney General, State of Illinois, at 5 n.8 (February 20, 2019).



April 2, 2019

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Finally, footnote 6 of your Request for Review alleges that the District's FOIA Officer's "demand for private records in the possession of private citizens unequivocally represents an act of harassment," and states that through your Request for Review, you are submitting a "formal grievance for harassment pursuant to section 2.260 of School District Board Policy."⁵ However, the Public Access Counselor's authority is limited to addressing alleged violations of FOIA and the Illinois Open Meeting Act. 15 ILCS 205/7(c) (West 2016). Accordingly, this office does not have the authority to address your grievance for alleged harassment.


For the reasons stated above, this office has determined that no further action is warranted in this matter. This letter shall serve to close this matter. Should you have questions, you may contact me at (312) 814-6437 or lbartelt@atg.state.il.us.

Very truly yours,


LEAH BARTELT
Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
Mr. Jim Blaney
FOIA Officer
Valley View School District 365U
801 West Normantown Road
Romeoville, Illinois 60446
blaneyjc@vvsd.org

⁵Letter from  to Sarah Pratt, Public Access Counselor, Office of the Attorney General, State of Illinois, at 5 n.6 (February 20, 2019).



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

May 7, 2020

Via electronic mail

Mr. Marc Girdler
marcfusiontwitch@gmail.com

Via electronic mail

Mr. Jordan T. Klein
Erickson, Davis, Murphy, Johnson & Walsh, Ltd.
132 South Water Street, Suite 610
Decatur, Illinois 62523
jklein@ericksondavislaw.com

RE: FOIA Request for Review – 2020 PAC 61809

Dear Mr. Girdler and Mr. Klein:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2018)). For the reasons that follow, the Public Access Bureau concludes that the Decatur Public Library (Library) improperly designated Mr. Marc Girdler as a recurrent requester.

On January 31, 2020, Mr. Girdler submitted a FOIA request to the Library seeking five categories of e-mails. Mr. Girdler signed the request with his own name, and did not indicate that he was affiliated with any group or organization. The same day, the Library informed Mr. Girdler that it was treating him as a recurrent requester, as defined by section 2(g) of FOIA (5 ILCS 140/2(g) (West 2018)), and would respond to his request within 21 business days. The Library listed 51 FOIA requests submitted between the dates of April 22, 2019, and January 30, 2020, which it contended were sent by Mr. Girdler or were "DPL [Decatur Public Library] Watchdogs requests [that] note 'Marc Girdler on behalf of DPL Watchdogs' or are sent from an email address that is associated with Mr. Girdler."¹ On February 15, 2020, Mr. Girdler filed this Request for Review challenging the Library's designation of him as a recurrent requester, contending that he did not send all of the FOIA requests the Library cited in its

¹E-mail from Decatur Public Library, FOIA Officers to [Marc] Girdler (January 31, 2020).

Mr. Marc Girdler
Mr. Jordan Klein
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January 31, 2020, letter. Mr. Girdler acknowledged that he contributes to the DPL Watchdogs website ("keepdplhonest.wordpress.com") and that he has used the DPL Watchdogs e-mail address to make FOIA requests to the Library, but he contended that he always signed his name to those requests. He asserted that he did not submit any of the requests from DPL Watchdogs that do not bear his name.

On February 24, 2020, this office sent the Library a copy of the Request for Review and asked it to provide a detailed explanation of the factual and legal bases for the Library's designation of Mr. Girdler as a recurrent requester and to provide copies of the FOIA requests the Library used in its determination. On March 4, 2020, the Library provided a written response and the requested materials. On March 9, 2020, this office forwarded the Library's written response to Mr. Girdler. He replied on March 10, 2020.

DETERMINATION

Definition of Recurrent Requester

Section 2(b) of FOIA (5 ILCS 140/2(b) (West 2018)) defines a "person" as "any individual, corporation, partnership, firm, organization or association, acting individually or as a group." Section 2(g) of FOIA defines a "recurrent requester" as a "person" who, "in the 12 months immediately preceding the request, has submitted to the same public body (i) a minimum of 50 requests for records, (ii) a minimum of 15 requests for records within a 30-day period, or (iii) a minimum of 7 requests for records within a 7-day period." A public body's time to respond to a request by a recurrent requester is extended to 21 business days after receipt of the request. 5 ILCS 140/3.2(a) (West 2018).²

This office has reviewed the copies of the FOIA requests the Library provided to this office and observed that many were signed by Mr. Girdler, some were signed by Mr. Girdler on behalf of the DPL Watchdogs, and some were signed only by "DPL Watchdogs." The Library argued that all of the requests should be attributed to Mr. Girdler. It asserted that Mr. Girdler is the sole contributor to the DPL Watchdogs website, based on the fact that he is the only author listed on the website's posts. The Library cited this office's non-binding determination in Ill. Att'y Gen. PAC Req. Rev. Ltr. 56925, issued April 2, 2019, for the proposition that all of the requests may be considered as coming from the same "person" as defined in section 2(b) of FOIA (5 ILCS 140/2(b) (West 2018)). In that case, an individual submitted FOIA requests to a public body in his personal capacity and on behalf of two organizations. The individual had signed his name to each of the requests, and therefore this

²In contrast, a public body must respond to most other types of requests within 5 business days after receipt of the request unless it extends the time to respond by an additional five business days. 5 ILCS 140/3(d) (West 2018).

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office concluded that all of the requests could be attributed to that individual for purposes of designating him as a recurrent requester. Ill. Att'y Gen. PAC Req. Rev. Ltr. 56925, at 2-3.

In his reply, Mr. Girdler acknowledged that he is the only author listed for the posts on the website, but argued that the website has other contributors who submit FOIA requests to the Library.

After reviewing the records, this office is unable to determine who submitted the FOIA requests signed only as "DPL Watchdogs." This office has received at least one other Request for Review (2020 PAC 62320) from a contributor to the DPL Watchdogs website who may have used the DPL Watchdogs e-mail address. Unlike the circumstance in Ill. Att'y Gen. PAC Req. Rev. Ltr. 56925, where the requester signed every FOIA request, there is insufficient proof that Mr. Girdler submitted the DPL Watchdogs requests that he did not sign. Further, not all requests submitted by Mr. Girdler could reasonably be considered to have been on behalf of the DPL Watchdogs website, as the first post on that site is dated August 29, 2019,³ months after many of the FOIA requests cited by the Library as proof of Mr. Girdler's recurrent requester status.

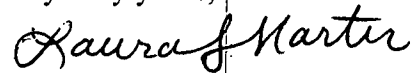
Accordingly, for purposes of calculating Mr. Girdler's status as a recurrent requester, the Library may count all FOIA requests that Mr. Girdler signed, either in his personal capacity or on behalf of the DPL Watchdogs. To calculate the DPL Watchdogs' status as a recurrent requester, the Library may count all FOIA requests signed by the DPL Watchdogs and all FOIA requests signed by individuals on behalf of the DPL Watchdogs, including Mr. Girdler. Because he has denied sending them and there is insufficient evidence to the contrary, the FOIA requests signed only by the DPL Watchdogs may not be considered in determining whether Mr. Girdler is a recurrent requester. Therefore, the Library has not demonstrated that Mr. Girdler submitted the requisite number of FOIA requests to be designated as a recurrent requester. This office requests that the Library refrain from treating Mr. Girdler or DPL Watchdogs as a "recurrent requester" until they have submitted the requisite number of requests to qualify under the definition of that term in section 2(g) of FOIA.

³Marc Fusion, "Rick Meyer's Costly Adventures in D.C." (August 29, 2019), *available at* <https://keepdplhonest.wordpress.com/2019/08/29/rick-meyers-costly-adventures-in-d-c/>

Mr. Marc Girdler
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Page 4

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at (217) 524-7958 or LHarter@atg.state.il.us.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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