

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

BETTER GOVERNMENT ASSOCIATION,)
)
Plaintiff,)
)
v.)
)
CITY COLLEGES OF CHICAGO,)
)
Defendant.)

COMPLAINT

NOW COMES Plaintiff, BETTER GOVERNMENT ASSOCIATION, by its undersigned attorneys, LOEVY & LOEVY, and brings this suit to overturn Defendant CITY COLLEGES OF CHICAGO's refusal, in willful violation of the Illinois Freedom of Information Act, to produce data about student graduation rates, with any personally identifying student information redacted. In support of its Complaint, BGA states as follows:

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of

government activity that affect the conduct of government and the lives of the people. 5 ILCS 140/1.

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/3.

4. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.”

PARTIES

5. Plaintiff BETTER GOVERNMENT ASSOCIATION (“BGA”) is a non-partisan, non-profit corporation located in Cook County, Illinois. BGA’s mission is to promote integrity, transparency, and accountability in government by exposing waste, fraud, and corruption; to advocate for effective public policy; and to inform and engage the community. BGA was founded in 1923 to protect the integrity of the political process in Chicago.

6. Defendant CITY COLLEGES OF CHICAGO (“CCC”) is a public body located in Cook County, Illinois.

7. CCC has frequently publicized claims that it has awarded a rising number of degrees and certificates (also known as completions) and graduation rates in recent years.

8. CCC has engaged in various efforts to enhance its publicized statistics on completions and graduation rates.

9. One practice used by CCC to enhance its statistics is to award retroactive degrees to students who did not request them; sometimes a decade or more after the student last attended a CCC school.

10. CCC has also awarded multiple degrees to individual students in a manner that violates CCC's own rules but results in more favorable statistics.

11. CCC has further engaged in an effort to persuade students, through a telemarketing-style call center, to change majors to a more easily achieved Associate in General Studies degree. CCC has engaged in this campaign despite its claimed priority of giving students "an education that ensures them a job" through degrees "tied to actual regional economic need" under the Reinvention of City Colleges of Chicago program. In connection with this effort, CCC also lowered the requirements to obtain many degrees, including the AGS degree, through reducing the credit hours needed and eliminating certain curriculum requirements and other changes.

JUNE 28 REQUEST

12. In an effort to test the validity of CCC's claimed successes, on June 28, 2017, BGA requested (1) all data contained in CCC's OpenBook Student Navigator or its equivalent, (2) all data contained in the CCC's CS9 database or its equivalent, (3) all data and spreadsheets involved in completion audits since 2010, and (4) any records or data necessary to understand the definitions and coding such as file names, headers and any other unique identifiers. A true and correct copy is attached as Exhibit A.

13. On July 5, 2017, CCC took an extension of five business days to respond to the request.

14. At no time has BGA agreed in writing to any further extension of time for CCC to respond to the requests.

15. After a series of oral discussions about the scope of the requests, on August 1, 2017, CCC denied portions of the request, asserting that student ID numbers are exempt under

FOIA Section 7(1)(a) pursuant to the Family Educational Rights and Privacy Act, as well as exempt under FOIA Sections 7(1)(b) and 7(1)(c). For purposes of resolving the requests amicably, BGA agreed to production of the records with student ID numbers redacted without conceding they are exempt.

16. On August 16, 2017, after many further discussions between BGA and CCC regarding narrowing the request, CCC denied most of the request as unduly burdensome pursuant to Section 3(g), stating that it would take hundreds of hours to comply with the request. A true and correct copy is attached as Exhibit B.

17. CCC has made clear that a significant amount of the alleged burden was not to pull or produce the relevant data, but to allow CCC to “validate” it—something that BGA did not request. To the contrary, BGA seeks the raw data it requested without any modifications by CCC.

18. On September 12, 2017, BGA reached out to CCC in another attempt to resolve the matter short of litigation. BGA explained, as it had previously, why the request should only take a few hours to complete as opposed to the amount of time claimed by CCC.

19. Throughout the process, CCC refused to make its IT staff directly available to BGA to discuss the alleged technical issues with BGA’s own technical expert and attempt to work through any legitimate burden issues.

20. As of the date of filing, CCC has failed to substantively respond to BGA’s September 12 letter.

COUNT I – WILLFUL VIOLATION OF FOIA

21. The above paragraphs are incorporated by reference.

22. CCC is a public body under FOIA.

23. The records sought in BGA's FOIA request are non-exempt public records of CCC.

24. CCC has willfully and intentionally violated FOIA by refusing to produce the requested records.

WHEREFORE, BGA asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that CCC has violated FOIA;
- iii. order CCC to produce the requested records;
- iv. enjoin CCC from withholding non-exempt public records under FOIA;
- v. order CCC to pay civil penalties;
- vi. award Plaintiff reasonable attorneys' fees and costs;
- vii. award such other relief the Court considers appropriate.

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
BETTER GOVERNMENT ASSOCIATION

Matthew Topic
Joshua Burday
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com
Atty. No. 41295

ELECTRONICALLY FILED
10/30/2017 12:59 PM
2017-CH-14457
PAGE 6 of 10

Eugene Munin
General Counsel, City College of Chicago
226 W. Jackson Blvd., 14th Floor
Chicago, IL 60606

Mr. Munin:

This is a request for public records under the Illinois Freedom of Information Act. Please make available for my inspection by noon Thursday, July 6, 2017 the following public records:

- 1) All data contained in the City of Colleges of Chicago (CCC) OpenBook Student Navigator, or its equivalent. This request includes, but is not necessarily limited too, all raw data in CCC's possession, custody or control used to identify and track progress for individual students, including student identification numbers, home college, latest home college, IPEDS college, cohort year, advisor name, first credit term, declared program, total terms enrolled, credits, last term enrolled and any other data included in the student navigator database or any other student database.
- 2) All data contained in the CCC's CS9 database, or its equivalents. This request includes, but is not necessarily limited to, all data contained in the database such as student identification numbers, dates, degrees, results, completions, awards, credits needed, projected completion dates, projected graduation dates, actual completion dates, actual graduation dates and any other information stored in the database.
- 3) All data and spreadsheets involved in completion audits since 2010. This request includes, but is not necessarily limited to, a master spreadsheet of each completion audit with data enumerating student identification numbers, completion dates, advisors, credits needed and all other data contained therein.
- 4) Any records or data necessary to understand the definitions and coding such as file names, headers and any other unique identifiers.

Please make these public records available in their original format, complete and unredacted, except as it pertains to student first and last names, which we understand is exempt from public scrutiny for privacy reasons. As this request is made in my capacity as a journalist, time is of the utmost concern.

If you feel any of the requested records are exempt from public scrutiny, please provide that portion of this request not in dispute, along with the specific explanation of the portion withheld and the specific statutory exemption under which you are doing so.

As I discussed with Ms. Hayes earlier today, I am always available at the number below to discuss problems, questions or concerns regarding this request. Thank you for your prompt attention to this matter.

Sincerely,

David Kidwell
Better Government Association
312 912-3938

Exhibit A

ELECTRONICALLY FILED
10/30/2017 12:59 PM
2017-CH-14457
PAGE 7 of 103

August 16, 2017

As part of our continuing discussions to reduce your pending FOIA request to manageable proportions, I forwarded to staff from Academic Affairs the following excerpt from an email sent to you on August 3, 2017:

Finally, I have clarified your request regarding the Open Books Student Navigator database. Please correct me if I am wrong. You want CCC to provide ALL data from the 100+ data fields/headers you have identified, for every student that is in that database, linked to the random # that has been assigned by Completion and Retention staff, with NO time limitations whatsoever...as far back as it goes.

On August 8, 2107 I arranged for a telephone conference call with you and two of your staff members with computer/data expertise. Our Associate Vice Chancellor for Strategy & Academic Governance participated in that call and provided a rather detailed explanation for the extraordinary amount of work it would take to comply with the request as written. She has reduced her estimate to writing which reads as follows:

Here is an estimate of work required to fulfill the request from BGA, using the request parameters of providing:

- *Every single student that is included in the Open Book Student Navigator database*
- *All data associated with the 100+ headers or data fields identified in the July 14, 2017 email*
- *Student IDs be removed to de-identify students*

1. Process/task steps to execute

- a. *[1-2 days] Review request and outline data pull methodology*
 - i. *Translate request into technical data extract requirements, plan out data file packaging and security structures/procedures, review data quality/sensitivity of requested fields, plan out validation and documentation procedures, identify resources to assist, and estimate time required to fulfill request*
- b. *[2-3 days] Identify/resolve data methodology questions (internally or externally)*
- c. *[2-3 days] extract data*
 - i. *7 data cubes*
 - ii. *100+ headers/data fields*
 - iii. *3,000,000+ individual student records (number or records expands based on the type of data cube)*
- d. *[1-2 days] De-identify data*
 - i. *Create and assign new identifier to de-identify student IDs across all data files*
- e. *[2-5 days] Validate the data extracts and make adjustments/re-extract as needed*
- f. *[1-day] Package and secure the data pull*
- g. *[2-3 days] Create data dictionary definitions related to the files – blank fields require investigation/definition with OpenBook team*
- h. *[1-2 days] (Internal Process) Document and organize data pull process and student ID crosswalk (for future questions/inquiries)*
- i. *[1 day] (Internal Process) Provide data briefing/summary for FOIA officer*

2. Staffing required (across multiple teams)

- a. *Decision support: 1 manager. 2 staff members (1.5 FTE)*

b. OIT: 1 manager, 1 data analyst (1 FTE)

3. Estimated people hours to execute

a. 13-22 days (2.6 – 4.4 working weeks)

i. Min: 2.5 FTE x 13 days * 8 hrs/day = 260 hrs

ii. Max: 2.5 FTE x 22 days * 8 hrs/day = 440 hrs

4. Impact on operational responsibilities

a. *Decision Support: Compliance reporting, there are 17 upcoming compliance submission deadlines in August, September and October. These data submissions have financial fine implications for missing compliance deadlines or producing incorrect data.*

b. *OIT: There is only one person in the data warehouse department dedicated to monitoring and supporting the data system and resolving issues/problems. Other OIT staff is dedicated to supporting the upcoming compliance reporting period as well.*

While you have attempted to narrow your request, our office is denying this part of your request pursuant to 5 ILCS 140/3(g) as compliance with your request would be unduly burdensome. In order to comply with your request, it would require extremely time-consuming efforts from our staff. The requested records would number in the millions. The review, redaction, arrangement, and deidentification of student records would require the work of multiple staff members over many, many days. It remains our position that the request as written remains unduly burdensome, you have not narrowed your request to manageable proportions, and the burden on this public body outweighs the public interest in the information. *Heinrich v. White*, 2012 IL App (2d) 110564.

City Colleges of Chicago continues to search for and compile degree audits/completion management reports from prior years, including those you requested from SharePoint. You will be notified once compiled and reviewed.

While we have not completed our response to your request please be advised you have a right to have the denial of this request reviewed by the Public Access Counselor (PAC) at the Office of the Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
Email: publicaccess@atg.state.il.us

You also have the right to seek judicial review of your denial by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this denial letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this denial letter when filing a Request for Review with the PAC.

Sincerely,
James M. Reilly
Assoc General Counsel

James Reilly

Associate General Counsel
City Colleges of Chicago
226 W. Jackson Blvd, 14th Floor
Chicago, IL 60606
312-553-2540 (Direct)
312-553-2539 (Fax)
jreilly1@ccc.edu

The information contained in this message (including any attachments) is proprietary, confidential and/or privileged attorney-work product, is intended for a specific individual and purpose and is protected by law. If you are not the intended recipient, you are hereby notified that any use, disclosure, copying, or distribution of this message or attachments or taking of any action based on it, is strictly prohibited. If you have received this message in error, please re-send it to the sender and delete the original from your computer system.

ELECTRONICALLY FILED
10/30/2017 12:59 PM
2017-CH-14457
PAGE 10 of 10

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

BETTER GOVERNMENT ASSOCIATION

v.

CITY COLLEGES OF CHICAGO

No. 2017-CH-14457

Defendant Address:

CITY COLLEGES OF CHICAGO

226 W. JACKSON

CHICAGO, IL 60606

[X] SUMMONS [] ALIAS - SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the Office of the Clerk of this Court at the following location:

[X] Richard J. Daley Center, 50 W. Washington, Room 802, Chicago, Illinois 60602

[] District 2 - Skokie

5600 Old Orchard Rd. Skokie, IL 60077

[] District 3 - Rolling Meadows

2121 Euclid 1500 Rolling Meadows, IL 60008

[] District 4 - Maywood

Maybrook Ave. Maywood, IL 60153

[] District 5 - Bridgeview

10220 S. 76th Ave. Bridgeview, IL 60455

[] District 6 - Markham

16501 S. Kedzie Pkwy. Markham, IL 60428

[] Richard J. Daley Center

50 W. Washington, LL-01 Chicago, IL 60602

You must file within 30 days after service of this Summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than thirty (30) days after its date.

[X] Atty. No.: 41295

Name: LOEVY & LOEVY

Atty. for: BETTER GOVERNMENT ASSOCIATION

Address: 311 N ABERDEEN 3FL

City/State/Zip Code: CHICAGO, IL 60607

Telephone: (312) 243-5900

Primary Email Address: matt@loevy.com

Secondary Email Address(es):

joshb@loevy.com

Witness: Monday, 30 October 2017

/s DOROTHY BROWN

DOROTHY BROWN, Clerk of Court



Date of Service:

(To be inserted by officer on copy left with Defendant or other person)

**Service by Facsimile Transmission will be accepted at:

(Area Code) (Facsimile Telephone Number)

Chancery DIVISION

Litigant List

Printed on 10/30/2017

Case Number: 2017-CH-14457

Page 1 of 1

Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
BETTER GOVERNMENT ASSOCIATION				

Total Plaintiffs: 1

Defendants

Defendant Name	Defendant Address	State	Zip	Unit #	Service By
CITY COLLEGES OF CHICAGO	226 W. JACKSON CHICAGO,	IL	60606		Sheriff-Clerk

Total Defendants: 1