February 9, 2015

“Fred Lux”

Re: FOIA Request 15-016

Dear “Mr. Lux”:

I write to respond to your Freedom of Information request dated January 8, in which you requested:

“1) Is "12:00:00 AM" noon, or is it midnight? If midnight, that would mean this email was sent midnight of the 23rd of July, or was it sent Midnight of the 24th?
2) I see that it was sent at EXACTLY 12:00:00. This seems very unusual -- does your email system allow emails to be set up for mailing at an exactly pre-specified time? Is there some other explanation why the time-stamp would be for *exactly* 12:00:00?
3) Please provide all the emails Chancellor Wise sent from 1/2 hour before this attached email to 1/2 hour after this attached email.
4) The subject is blacked out. Is this because the subject is a person’s name?
5) If the subject is not a person’s name, please provide either the unredacted subject, or provide the legal basis for the redaction.
6) Please provide all emails related to this redacted subject. If you refuse to do this, please provide the legal basis for refusing to provide this information.”

The points one, two, four and five of your FOIA request are not seeking a public document; instead, you are asking the University to answer questions or provide an explanation. In Kenyon v. Garrels, the 4th District Illinois Appellate Court found that “requests for information that did not identify the documents to be produced or made available was not in proper form.” 184 Ill. App. 3d 28, 33 (Ill. App. Ct. 4th Dist. 1989). The court went on to say, FOIA "does not compel the agency to provide answers to questions posed by the inquirer." Kenyon, 540 N.E.2d at 13 (citing Krohn v. Department of Justice (D.C. Cir. 1980), 628 F.2d 195).

Since these points of your request are not a request for records, they are not in proper form and, thus, are denied.

Your request for documents as described in point 6 of your request is considered unduly burdensome to the University as you do not list a University account to be searched or a specific time period. Without this information, the University would have to search all University email accounts for an unspecified time period for the information sought in your request. Due to the short timeframe provided by FOIA and the limited staff available to perform the search, collection and review of any potentially responsive records, compliance with your request would unduly burden the University.

Office for University Relations
Urbana ● 108 Henry Administration Building ● MC 370 ● 506 South Wright Street ● Urbana, IL 61801 ● (217) 333-6400 ● Fax (217) 333-5733
Chicago ● 414 Administrative Office Building ● MC 971 ● 1737 West Polk Street ● Chicago, IL 60612-7228 ● (312) 996-3772 ● Fax (312) 996-1836
Pursuant to Section 3(g) of the Act, we would like to extend to you an opportunity to modify your request to make it of more manageable proportions. Specifically, we request that you narrow the scope of your request to a specific, narrow time frame and a short list of employees whose email accounts you would like us to search. This change should help narrow your request to more manageable proportions. If you do not reduce the request, it shall be treated as a denial.

Information responsive to point three of your request is available and attached. These are public documents numbering 5 pages.

Portions of these documents have been redacted or other documents have been withheld pursuant to the following section(s) of the Act:

- 140/7(1)(a) that exempts from disclosure “Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing adopted under federal or State law.” Under this exemption, documents containing legal advice given by an attorney that is required to remain confidential under state law, including, without limitation, the Illinois Rules of Professional Conduct were redacted or withheld from the responsive documents. In addition, information that could lead to the identification of a student was redacted as such information is prohibited from being released under the Family Educational Rights and Privacy Act (FERPA).

- 140/7(1)(b) that exempts from disclosure “Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.” This includes phone numbers and personal email addresses.

- 140/7(1)(c) that exempts from disclosure “Personal information contained within public records, the disclosure of which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information.” This includes the personal information and identity of private citizens who contacted University staff to express opinions, other personal communications not related to University business, and other student and personal information.

- 140/7(1)(f) exempts “preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.” This includes documents contain that preliminary discussions and expressions of opinion regarding possible policies and actions of the University.

- 140/7(1)(m) exempts “communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal,
civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.” A portion of your request includes communication between a public body and an attorney representing the public body for the purpose of obtaining legal advice and would not be subject to discovery in litigation.

Should you wish to inspect or receive a physical copy of these documents, please call Melanie Kuehn at the phone number below and she will provide you with all necessary details.

You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at 217-782-1396, by email to publicaccess@atg.state.il.us, or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

If you have questions for our office, please contact 217-333-6400.

Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer