



STATE OF NEW YORK

COMMITTEE ON PUBLIC ACCESS TO RECORDS

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March 10, 1983

Mr. Steven M. Martin
Kaye, Scholer, Fierman, Hays & Handler
425 Park Avenue
New York, New York 10022

The staff of the Committee on Public Access to Records is authorized to issue advisory opinions. The ensuing staff advisory opinion is based solely upon the facts presented in your correspondence.

Dear Mr. Martin:

I have received your letter of March 4 in which you requested an advisory opinion under the Freedom of Information Law.

Specifically, as Counsel to the City School District of New Rochelle, you inquired with respect to "the disclosure of nominating petitions filed by candidates seeking election to the board of education pursuant to Article 53 of the Education Law." Your questions are whether the petitions are accessible in their entirety, or whether the names, addresses, or both that identify those who sign the petitions may be withheld or deleted on the ground that disclosure would constitute an unwarranted invasion of personal privacy pursuant to §87(2)(b) of the Freedom of Information Law. You also asked whether the Committee has developed guidelines under §89(2)(a) of the Freedom of Information Law that might be applicable to the situation and the records that you described.

In my opinion, the petitions are likely available to the public in their entirety for the following reasons.

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First, although the petitions would identify individuals by means of names and addresses relative to a particular candidate, as you are aware, names and addresses of registered qualified voters are accessible generally under §2606(6) of the Education Law. As such, the identifying details found within a petition are the same as those required to be made available by means of a different record.

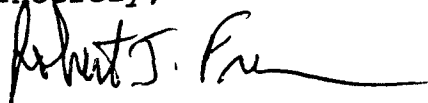
Second, while the Education Law does not make specific reference to the capacity to disclose or withhold nominating petitions, I believe that the petitions have routinely been available. Having discussed the matter with a representative of the Office of Counsel at the State Education Department, it was indicated that appeals to the Commissioner have been made on several occasions regarding challenges to petitions. Therefore, by implication, to initiate a challenge based upon a petition, it would appear that the petition must first be made available. Further, the attorney at the Education Department with whom I spoke did not express any reason based upon the Education Law that might be cited for the purpose of justifying a denial of access to a nominating petition.

Lastly, the Committee has not developed guidelines regarding the deletion of identifying details to protect against unwarranted invasions of personal privacy. In brief, it is the Committee's view that in many instances it would be inappropriate to impose its subjective judgments regarding privacy upon others. The resolution of questions regarding personal privacy is dependent upon personal points of view. Stated differently, while one reasonable person might view a record and contend that disclosure would be offensive, thereby resulting in an unwarranted invasion of personal privacy, an equally reasonable person might view the same record and feel that disclosure would be innocuous, thereby resulting in a permissible invasion of personal privacy. Moreover, there are virtually thousands of records in possession of state and local agencies containing personally identifiable details. As such, the task of developing guidelines regarding such a broad variety of records would be extremely burdensome.

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I hope that I have been of some assistance. Should any further questions arise, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert J. Freeman", with a long horizontal flourish extending to the right.

Robert J. Freeman
Executive Director

RJF:jm