



## **STATEMENT BY GLEN ELLYN SCHOOL DISTRICT 41 REGARDING JUDGE'S DECISION IN FREEDOM OF INFORMATION ACT LAWSUIT**

Glen Ellyn School District 41 resident Jeff Cooper's Freedom of Information Act ("FOIA") lawsuit against District 41 concluded on October 18 with the entry of an order by DuPage County Circuit Court Judge Bonnie Wheaton requiring the District to turn over certain e-mails to Mr. Cooper. The District, with consensus from the District 41 Board of Education, had denied Mr. Cooper's FOIA request for certain e-mails generated by members of the District's teachers' union. The union is the Glen Ellyn Education Association ("GEEA"), affiliated with the state-wide Illinois Education Association. As alleged by Mr. Cooper, the e-mails relate to GEEA's efforts to form "an informal committee comprised of teachers from various schools in the District, who screen, vet, and recommend candidates for the District's School Board." The e-mails will be turned over to Mr. Cooper by no later than October 25, 2016.

The lawsuit presented difficult legal questions pitting Mr. Cooper's interests under FOIA against potential legal disputes with GEEA/IEA under the collective bargaining agreement between the District and GEEA, the Illinois Educational Labor Relations Act and perhaps other laws. There were no Illinois court decisions addressing this issue, but several court decisions from other states to the effect that internal union communications were not public records under FOIA laws were presented to Judge Wheaton by the District. Judge Wheaton declined to follow those cases and found the GEEA e-mails to be public records under Illinois law. The District respects the Judge's decision and will not appeal.

Through the cooperation of Mr. Cooper and his attorney, the lawsuit was resolved as expeditiously and inexpensively as possible. In a FOIA case, the Court is required to award attorney's fees to the successful requester, and the District will pay Mr. Cooper's attorney \$5,600 in fees plus court costs of \$362.84. The District's fees and costs are expected to be about the same amount. Civil penalties of up to \$5,000 are also allowed under FOIA, but by agreement were not awarded. The District had hoped Mr. Cooper would have appealed to the Attorney General, which is the most common avenue of appeal from denials of FOIA requests. This would have been substantially less costly, but more time-consuming.

Independent of the litigation, the District is enforcing the Board of Education policy and Illinois law prohibiting employees against engaging in political activities on working time or through the use of District facilities, including its electronic network.

October 19, 2016