



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 18, 2011

Ms. Barbara Mitchell
Freedom of Information Officer
College of DuPage
425 Fawell Boulevard
Glen Ellyn, Illinois 60137

RE: FOIA Pre-Authorization Request – 2011 PAC 14103

Dear Ms. Mitchell:

We have received and reviewed the written notice from the College of DuPage of its intention to deny disclosure of certain information pursuant to section 7(1)(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010).

On April 26, 2011, Mr. Glenn Gaffney of Gaffney & Gaffney, P.C. submitted a FOIA request containing six (6) numbered requests for records. Request number three seeks "all statements or memos, including handwritten notes of oral conversations, prepared by" certain named individuals and which relate to Mr. Gaffney's client. Request number five seeks "all incident reports or statements made by anyone pertaining to" a particular meeting. The College has identified five records that are responsive to requests three and five, but asserts that the records are exempt from disclosure under section 7(1)(f) of FOIA. These records include two written statements provided to the College by College administrators during its investigation of Mr. Gaffney's client, and notes taken by three College employees during meetings and hearings.

Section 7(1)(f) of FOIA exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions 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." 5 ILCS 140/7(1)(f) (West 2009 Supp.), as amended by Public Act 96-1378, effective July 29, 2010.

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DETERMINATION

The College's use of the exemption in section 7(1)(f) to withhold the documents specified in the College's notice is **approved**. The College asserts that the written statements were provided to it to assist in an investigation, and these statements contain opinions on which the College relied in formulating its actions. The notes taken by the three College employees were preliminary in nature, and were taken to aid in the investigation. The College asserts that none of these documents has been publicly cited or identified by the Board of Trustees. We conclude that the College has met its initial burden of demonstrating that these statements and notes are exempt under section 7(1)(f).

If you have any questions, please contact me at (312) 814-2086. This correspondence shall serve to close this matter.

Very truly yours,



SARAH KAPLAN
Assistant Attorney General
Public Access Bureau

cc: Mr. Glenn Gaffney
Gaffney & Gaffney, P.C.
1771 Bloomingdale Road
Glendale Heights, Illinois 60139