



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 13, 2011

Mr. Chris Jасulca
Oak Park Elementary School District No. 97
970 Madison St.
Oak Park, IL 60302

RE: FOIA Pre-Authorization Request - 2011 PAC 14457

Dear Mr. Jасulca:

We have received and reviewed the written notice from the Oak Park Elementary School District No. 97 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 May 10, 2011, [REDACTED] submitted a FOIA request seeking a copy of the request for proposals, vendor presentations, and contract for the current Demographic Study commissioned by the District. The District claims that a draft demographic report responsive to this FOIA request is exempt from disclosure under section 7(1)(f) because it is a preliminary draft.

Section 7(1)(f) of FOIA allows withholding of:

[p]reliminary drafts, notes, recommendations, memoranda or other documents 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.

In *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), the Illinois Appellate Court ruled that "as a matter of public policy, section 7(1)(f) exempts from disclosure predecisional materials used by a public body in its deliberative process." *Harwood*, 344 Ill. App. 3d at 247. In considering the matter, the *Harwood* court adopted the defendant's argument that the word "preliminary" does not refer to the "posture of the particular document sought to be disclosed" but rather to "predecisional intra-agency communications." *Harwood*, 344 Ill. App.

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3d at 247-248. The court noted that no previous Illinois cases interpreted the use of the term "preliminary" and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect "predecisional, deliberative communications that are part of an agency's decision-making process." *Harwood*, 344 Ill. App. 3d at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998).

DETERMINATION

The District's use of the exemption in section 7(1)(f) to withhold the responsive draft report is **approved**. Based on our review, the record falls within the scope of the section 7(1)(f) exemption, because it consists of a preliminary draft. Further, there is no evidence to suggest that this record has been publicly cited and identified by the head of the public body. Accordingly, the District has met its initial burden of demonstrating that this record is exempt from disclosure under section 7(1)(f).

If you have any questions, please contact me at (217) 782-9078. This correspondence shall serve to close this matter.



MATTHEW M. SEBEK
Assistant Attorney General
Public Access Bureau

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cc:

