



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 7, 2010

Mark Wancket
Public Information
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

RE: Pre-Authorization Request – 2010 PAC 6251

Dear Mr. Wancket:

We have received and reviewed the written notice from the Illinois State Board of Education ('ISBE') of its intention to deny certain information as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act ('FOIA'). 5 ILCS 140/7(1)(f).

On February 24, 2010, Mr. Brooke Whitted submitted a FOIA request seeking:

all information relating to the issuance of [a specific] guidance document for public comment as required per Illinois statute, for the purpose of establishing it as a *bona fide* regulation. If no opportunity for public comment was sought, please provide copies of all documents, including electronic communications, where the subject of a document relates in any way to the issue of whether the document would be a guidance document or formally promulgated as a regulation by the Illinois State Board of Education.

In its written notice, the ISBE asserts that certain documents have been withheld from disclosure pursuant to Section 7(1)(f) of FOIA because these documents include drafts, notes, comments, and recommendations that were utilized in the internal deliberative process in order to determine the guidelines for the "Response to Intervention" (RTI) process.

Determination

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 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."

July 7, 2010

Page 2

The ISBE's use of the Section 7(1)(f) exemption with regard to the withheld documents is **approved**. We have determined that the withheld records are preliminary documents in which opinions and recommendations were expressed and which were relied upon by the ISBE in formulating actions regarding the guidance document. Therefore, the ISBE has met its burden of demonstrating that the withheld documents are exempt from disclosure under Section 7(1)(f) of FOIA.

If you have any questions, please feel free to contact me directly at (312) 814-6437. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Tola Adewola
Assistant Public Access Counselor

cc: Brooke Whitted
Whitted Cleary & Takiff
3000 Dundee Road
Suite 303
Northbrook, IL 60062