



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 13, 2011

Ms. Melanie Scott, FOIA Officer
Keeneyville School District No. 20
5540 Arlington Drive E
Hanover Park, IL 60133

RE: FOIA Pre-Authorization Request - 2011 PAC 14278

Dear Ms. Scott:

We have received and reviewed the written notice from Keeneyville School District No. 20 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 2010)). Specifically, on May 4, 2011, and May 5, 2011, [REDACTED] submitted several FOIA requests for copies of emails between members of the school board concerning a specific employee. The School District seeks to withhold certain emails pursuant to section 7(1)(f).

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." The section 7(1)(f) exemption applies to "inter- and intra-agency predecisional and deliberative material." *Harwood v. McDonough*, 344 Ill. App. 3d 242, 247 (1st Dist. 2003). The exemption is "intended to protect the communications process and encourage frank and open discussion among agency employees before a final decision is made." *Harwood*, 344 Ill. App. 3d at 248.

DETERMINATION

The School District's use of the section 7(1)(f) exemption to withhold the email messages is **approved in part and denied in part**. The records submitted for our review include an email sent to the school superintendent by a member of the public on April 7, 2011, as well as the superintendent's response, which recites a final decision, on April 8, 2011. Those

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messages do not constitute pre-decisional, deliberative material and therefore are not within the scope of the section 7(1)(f) exemption.

However, the remaining messages contain notes, opinions and recommendations that members of the school board considered in formulating actions. Such records are pre-decisional in nature, and the School District has asserted that those records have not been cited or publicly identified by the school board president. Accordingly, we conclude that the School District has sustained its initial burden of demonstrating that these records are exempt from disclosure under section 7(1)(f).

The School District also indicates that it intends to redact additional information from the records pursuant to section 7(1)(b) and section 7(1)(m) (5 ILCS 140/7(1)(b), (m) (West 2010)). Because advance approval by the Public Access Counselor is not required for the assertion of exemptions other than sections 7(1)(c) (5 ILCS 140/7(1)(c) (West 2010)) and 7(1)(f), we make no determination at this time regarding the applicability of any other exemptions.

Accordingly, the School District may issue a partial denial letter and release the remaining records, if it has not already done so.

If you have any questions, please contact me at (312) 814-6756. This correspondence shall serve to close this matter.

Very truly yours,



STEVE SILVERMAN
Assistant Attorney General
Public Access Bureau

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cc:

