



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

May 6, 2010

Ms. Amy Zale
Oak Lawn Community High School District #229
c/o Odelson & Clark, Ltd.
3318 W. 95th St.
Evergreen Park, IL 60805

RE: FOIA Pre-approval Request – 2010 PAC 7085

Dear Ms. Zale:

On April 29, 2010, we received from the Oak Lawn Community High School District #229 a written request for approval of its intent to assert the Section 7(1)(f) exemption in response to a Freedom of Information Act (FOIA) request dated April 22, 2010 from [REDACTED]. The request sought copies of tapes and notes from certain specified meetings of the District Board of Education. The District has indicated its intent to withhold notes taken by administrators as exempt under Section 7(1)(f).

Section 7(1)(f) of the Freedom of Information Act 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. 5 ILCS 140/7(1)(f).

Based on our review of this information, we have determined that it is appropriate for the District to withhold under Section 7(1)(f) the notes in question. The information provided indicates that the notes at issue were taken by administrators at meetings during which those administrators were looking into potentially improper incidents involving the District wrestling program.

The Illinois Appellate Court in *Harwood v. McDonough*, 344 Ill. App. 3d 242 (1st Dist. 2003), 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." *Id.* 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." *Id.* at 247-248. The court noted that no previous Illinois caselaw

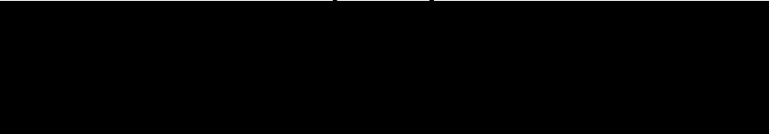
interpreted the use of the word preliminary and, as such, stated that it was helpful to look to cases interpreting the parallel language of the Federal Freedom of Information Act. The court determined that the exemption is intended to protect "predecisional, deliberative communications that are part of an agency's decision-making process." *Id.* at 248 (quoting *Parmalee v. Camparone*, No. 93 C 7362, 1998 WL 704181 (N.D. Ill October 1, 1998)). The notes in question in the District's Pre-Approval Request fall within the scope of the exemption. The notes appear to be part of the District's decisionmaking process in determining whether and how to address potential improprieties in the District's wrestling program. As such, the records are exempt from disclosure under Section 7(1)(f).

If you have any questions, please feel free to contact me at (217) 785-7438. This letter shall serve to close this file.

Sincerely,

Cara Smith
Public Access Counselor

By:


Amanda M. Lundeen
Assistant Public Access Counselor

cc:

