



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

June 23, 2010

Mr. Matt Vanover
Director of Public Relations
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

RE: FOIA Pre-Authorization – 2010 PAC 7661

Dear Mr. Vanover:

We have received and reviewed the documents that our Office requested on June 3, 2010 in order to determine if the ISBE's intention to withhold certain documents as exempt from disclosure under Section 7(1)(f) of the Freedom of Information Act (FOIA) 5 ILCS 140/1 *et seq.*, as amended is proper. Specifically, the ISBE is seeking to redact the handwritten notes contained in two February 2009 on-site reports of Timberline Knolls Academy (TK Academy), a private residential facility that provides support to Illinois students.

David Jackson of the Chicago Tribune submitted a FOIA request on May 13, 2010 seeking a copy of the following:

Since January 1, 2005...Records pertaining to any audits, inspections, findings, notifications or actions, including any actions or sanctions that may be considered adverse to the applicant or license holder and anyone working at the facility...We request copies of all correspondence between the Administrators of the Academy and representatives of the ISBE, including but not limited to the director...

On May 27, 2010, the ISBE sent Mr. Jackson a letter partially granting his request and partially denying his request for copies of the documentation of any on-site visits of TK Academy. On May 28, 2010, the ISBE sent a pre-authorization request to our office, asserting that the handwritten notes drafted by ISBE during those visits TK Academy are exempt under 7(1)(f).

Section 7(1)(f) exempts from inspection and copying "preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies 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).

On June 3, we initiated a further inquiry into this matter and the ISBE has supplied us with 20 pages of on-site notes from the February 2009 visits to TK Academy.

Determination


The ISBE's use of the exemption in 7(1)(f) with regard to the notes from the visits is approved. The notes contain opinions about the structure of the building, curriculum and TK Academy personnel. While much of the information in the notes was later incorporated into a public report entitled *Illinois State Board of Education Special Education Nonpublic Compliance Monitoring Review Report of Timberline Knolls Academy*, the notes continue to represent the deliberative making process that resulted in the report. As such, the notes fall within the exemption in Section 7(1)(f).

Therefore, the ISBE may assert the exemption under 7(1)(f) for records in which opinions are expressed or policies or actions are formulated. If you have any questions concerns, please contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. David Jackson
Chicago Tribune
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