



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2011

Ms. Bernadette M. Harrington
Illinois State Board of Elections
bharrington@elections.il.gov

RE: Pre-Authorization Request - 2011 PAC 13202

Dear Ms. Harrington:

We have reviewed the written notice from the Illinois State Board of Elections (Board) of its intention to deny disclosure of 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 March 17, 2011, Mr. Lee Williams, on behalf of the Illinois Policy Institute, sought copies of "all e-mails sent or received by Board of Elections attorney Ken Menzel from Wednesday, March 16, 2011 to close of business March 17, 2011."

In its March 29, 2011 Notice of Intent to Deny, the Board asserted that certain e-mails are exempt from disclosure pursuant to Section 7(1)(f) of FOIA, which exempts from inspection and copying "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions 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 Board supplied this Office with copies of the responsive e-mails that it seeks to exempt under Section 7(1)(f).

Determination

The Board's request for approval of its decision to withhold the e-mails pursuant to Section 7(1)(f) is approved. The Section 7(1)(f) exemption is intended to encourage government officials to openly and frankly discuss matters of governmental concern in order to make informed policy decisions. See *N.L.R.B. v. Sears*, 421 U.S. 132 (1975), *Hoffman v. Ill. Dept. of Corrections*, 158 Ill.App.3d 473, 511 N.E.2d 759 (1st Dist. 1987).

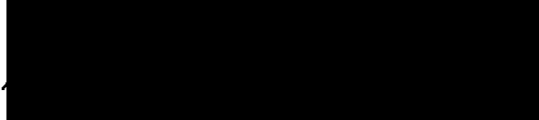
This Office has reviewed the e-mails that the Board seeks to withhold and we have concluded that they contain recommendations and opinions about proposed legislation and properly fall within the scope of Section 7(1)(f).

Additionally, there is no evidence that the e-mails have been publicly cited and identified by the head of the Board. 5 ILCS 140/7(1)(f).

Accordingly, we find that the Board has met its initial burden under Section 7(1)(f) and may withhold the e-mails.

If you have any questions, please feel free to contact me at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Lee Williams
Investigative Reporter
Illinois Policy Institute
802 S. 2nd Street
Springfield, Illinois 62704

13202 pre-auth al 7(1)(f) prelim sa