



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

November 23, 2010

Ms. Bernadette Harrington
General Counsel
Illinois State Board of Elections
1020 South Spring Street
Springfield, Illinois 62704

RE: Pre-Authorization Request – 2010 PAC 10735
Requester: Ms. Tegan Millspaw, Judicial Watch

Dear Ms. Harrington:

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

The Board's written notice relates to an October 29, 2010, FOIA request by Ms. Tegan Millspaw of Judicial Watch for the following records from "September 2010 to present":

1. "All records concerning Illinois' failure to meet federal deadlines to ship ballots to military and citizens overseas"; and
2. All records of communication between the [Board] and the U.S. Justice Department concerning failure to meet federal deadlines for shipping ballots to military and overseas citizens."

In its written notice, the Board indicated that it intended to partially deny the FOIA request. Specifically, the Board asserted that certain e-mail correspondence among the Board's general counsel, the Office of the Illinois Attorney General, and Department of Justice attorneys "discussing draft versions of the Final Consent Decree entered into by the [Board] and the Department of Justice and the Press Release for the Decree" is exempt from disclosure under Section 7(1)(f) of FOIA (Correspondence). The Board stated: "The draft versions of the Consent Decree and the Press Release are attached to said emails; therefore, the Board intends to assert the 7(1)(f) exemption for records that are preliminary drafts in which actions are formulated."

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. 5 ILCS 140/7(1)(f).

Determination


The Board's use of the Section 7(1)(f) exemption with regard to the Correspondence is **approved**. Based on the Board's assertions and our internal review, the Correspondence in question constitutes records in which opinions are expressed and actions are formulated. There is no evidence that any of the Correspondence has been publicly cited and identified by the head of the public body. Accordingly, the Board has met its initial burden of demonstrating that the Correspondence is exempt from disclosure under Section 7(1)(f) of FOIA.

Should you have questions or concerns, please feel free to contact me at (312) 793-0865. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:


Sara Gadoia Carragher
Deputy Public Access Counselor

cc: Ms. Tegan Millspaw
Judicial Watch
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