



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

Lisa Madigan
ATTORNEY GENERAL

December 6, 2010

Raymond Hauser
Sraga Hauser, LLC
19730 Governors Highway
Suite 10
Flossmoor, IL 60422-2083

RE: Pre-Authorization Request – 2010 PAC 10591

Dear Mr. Hauser:

We have received and reviewed the written notice from Ottawa Township High School District 140 (District) of its intention to deny disclosure of certain information pursuant to Section 7(1)(f) of the Freedom of Information Act (FOIA).

Specifically, on October 14, 2010, Ms. Stacie Walton submitted a FOIA request to the District, seeking "all documentation of imposed employee discipline contained in the personnel files of current OTHS teachers." In its written notice, the District asserts that the requested records are exempt from disclosure under Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)).

Determination

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." *Id.*

The District's use of Section 7(1)(f) exemption to deny disclosure of the requested records, in their entirety, is denied. We have determined that these records, consisting of letters imposing employee discipline, do not constitute pre-decisional materials containing opinions or recommendations that were utilized by the District in formulating an action or policy regarding specific matter(s). For this reason, the District has failed to meet its initial burden of demonstrating that the records are exempt from disclosure under Section 7(1)(f) of FOIA.

Notwithstanding, it appears that two documents enclosed within the requested records contain statements of certain staff members regarding a misconduct allegation. It is our determination that these statements constitute pre-decisional deliberative process materials solicited, obtained, and utilized by the District in making its final determination regarding the misconduct

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allegations. As such, the District may use the Section 7(1)(f) exemption to withhold disclosure of these two documents.

Please note that this letter does not express an opinion or provide advice as to the applicability of any exemptions to these records other than Section 7(1)(f).

Accordingly, the District may issue a partial denial letter directly to Ms. Walton and may release the records to her with the appropriate information redacted. If you have any questions or concerns, please feel free to contact me directly at (312) 814-6437. This correspondence shall serve to close this matter.

Sincerely,

Cara Smith
Public Access Counselor

By:



Tola Sobitan
Assistant Public Access Counselor

cc: Stacie Walton
IEA Uniserv Director
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