



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

March 3, 2011

Mr. Chris Jasculca
Freedom of Information Act Officer
Oak Park Elementary School District No. 97
cjasculca@op97.org

RE: FOIA Pre-Authorization Request - 2010 PAC 6961

Dear Mr. Jasculca:

We have received and reviewed the written notice from the Oak Park Elementary School District No. 97 (District) of its intention to withhold certain information as exempt from disclosure under Section 7(1)(c) and Section 7(1)(f) of the Freedom of Information Act (FOIA), 5 ILCS 140/1 *et seq.*, as amended.

Specifically, on April 5, 2010, Mr. Erik S. Newton submitted a FOIA request to the District seeking copies of all survey comments relating to a climate survey conducted by the District.

On April 19, 2010, the District submitted a Notice of Intent to Deny with this Office explaining that the individualized comments by parents and staff are exempt from disclosure pursuant to Section 7(1)(f) of FOIA (5 ILCS 140/7(1)(f)), which 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."

The District also asserted that the comments are exempt from disclosure pursuant to Section 7(1)(c) which exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless disclosure is consented to in writing by the individual subjects of the information." The exemption defines "[u]nwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information." *Id.*

On May 20, 2010, the District supplied the Office of the Public Access Counselor with both staff and parent comments of the survey.

Determinations

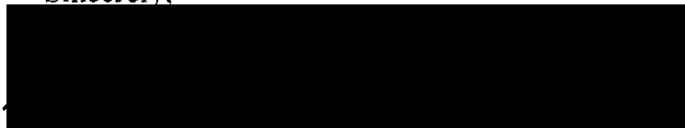
The District's use of the Section 7(1)(f) exemption with regard to the survey comments is approved.

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).

Upon review of the comments submitted by District employees and parents, we have determined that these records are preliminary documents obtained and utilized by the District in its decision-making process regarding the climate program and properly fall within the scope of Section 7(1)(f).

Accordingly we find that the District has met its initial burden with regard to the comments pursuant to Section 7(1)(f). Because of the applicability of Section 7(1)(f), we decline to discuss the applicability of Section 7(1)(c). If you have any questions or concerns, please feel free to contact me directly at (312) 814-5383. This correspondence shall serve to close this matter.

Sincerely,



Matthew C. Rogina
Assistant Public Access Counselor

cc: Mr. Erik S. Newton
Lumen Law
500 N. Michigan Ave., Suite 300
Chicago, IL 60611

6961 pre-auth al 7(1)(f) prelim sd