



Advisory Opinion 11-009

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2010). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On May 5, 2011, the Information Policy Analysis Division (IPAD) received an email from Cassandra K. Ward Brown. In her letter, Ms. Ward Brown asked the Commissioner to issue an advisory opinion regarding her right to gain access to certain data Special School District 1, Minneapolis maintains. On May 6, 2011, Ms. Ward Brown supplemented her request with additional information regarding the District's response to her data request.

IPAD, on behalf of the Commissioner, wrote to Bernadeia Johnson, District Superintendent, in response to Ms. Ward Brown's request. The purposes of this letter, dated May 16, 2011, were to inform her of Ms. Ward Brown's request and to ask her to provide information or support for the District's position. Dan Loewenson, Chief of Staff for the District, responded, in a letter dated June 9, 2011.

A summary of the facts follows. According to Ms. Ward Brown, beginning in "at least" October, 2010, she asked the District for access to a compensation study conducted by a consultant for the District. In her May 6, 2011, email, Ms. Ward Brown wrote:

[T]oday Mr. Loewenson provided me with a Power Point referencing the PSPC Report, a memo about the District's Compensation Philosophy, two handouts regarding the District's proposed salary plan and Schematic of Occupational Job Classes. I have not been provided a copy of the PSPC Report.

In December 2010, she also asked for a copy of the "Schiller" report, which "analyzes employment positions" in the District. Ms. Ward Brown stated to the Commissioner:

.... This [sic] District subsequently provided me with a redacted copy of the Schiller report. The report is visibly redacted. Page 76 has a sentence that ends in the middle, and the remainder of the page is blank. Other locations in the report has [sic] text that does not follow logically. Dan Loewenson [sic] claims that only the Appendix was removed for convenience. However, the District General Counsel stated, without prompting, in a staff meeting that the Schiller Report has indeed been redacted, because it [sic] the redacted information might cause embarrassment to or upset the departments or individuals discussed.

Issue:

Based on Ms. Ward Brown's opinion request, the Commissioner agreed to address the following issue:

Did Special School District 1, Minneapolis, comply with Minnesota Statutes, Chapter 13, in its response to a request for "the position study report of Dr. Schiller," and the "compensation study report of Public Sector Personnel Consultants, Inc. (PSPC)"?

Discussion:

Pursuant to Minnesota Statutes, Chapter 13, government data are public unless otherwise classified. (Minnesota Statutes, section 13.03, subdivision 1.) Upon request for access to public government data, a government entity must provide the requested data, or cite the specific statutory basis on which it denies access. (Section 13.03, subdivision 3.)

In his comments to the Commissioner, Mr. Loewenson wrote:

A copy of the final position study report that Dr. Schiller's [sic] wrote for the District was given to Ms. Brown on April 1, 2011. The District did not redact Dr. Schiller's final report. Dr. Schiller was editing the report prior to giving the District the final report. The District asserts that the author editing a draft report prior to submitting a final report to the District does not constitute redaction within the meaning of the MGDPA.

A copy of the final compensation study report prepared for the District by PSPC was given to Ms. Brown on May 6, 2011. The District did not redact PSPC's final report.

The District furnished Ms. Brown with parts of the report as they became finalized prior to giving her a copy of the complete final report on May 6, 2011. The District asserts that giving the requestor portions of a report that become available prior to the entire report being finalized does not constitute redaction within the meaning of the MGDPA. The District gave Ms. Brown portions of the report prior to the report being finalized in order to comply with the spirit of the MGDPA and in an attempt to respond to her data practices request promptly.

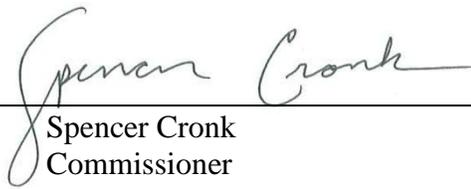
Ms. Ward Brown stated that the District did not provide her with a copy of the PSPC report; the District states that it did. Ms. Ward Brown gave examples for the basis of her claim that the District gave her a redacted copy of the Schiller report, and stated that the District's general counsel stated that the report was redacted. Apparently, according to Mr. Loewenson, the District provided Ms. Ward Brown with portions of the reports in draft versions; he stated that does not mean the District redacted any data.

The Commissioner is unable to resolve factual disputes. If the District has redacted any data from either report, it must cite the specific statutory basis for doing so. Otherwise, Ms. Ward Brown has repeatedly asked for copies of the final reports. If the District has provided her with copies of draft versions of any portion of the reports, it should promptly provide Ms. Ward Brown with final copies.

Opinion:

Based on the facts and information provided, the Commissioner's opinion on the issue that Ms. Ward Brown raised is as follows:

The Commissioner cannot determine whether Special School District 1, Minneapolis, complied with Minnesota Statutes, Chapter 13, in its response to a request for the position study report of Dr. Schiller, and the compensation study report of Public Sector Personnel Consultants, Inc. (PSPC), because the parties disagree as to whether the District redacted any data from either report.

Signed: 

Spencer Cronk
Commissioner

Dated: _____
June 20, 2010