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December 23, 1993

Michael A. Noonan, Esquire
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37 Greene Street
Cumberland, Maryland 21502

Dear Mr. Noonan:

Delegate Kevin Kelly has asked me to give you the views of the Attorney General's Office on whether, as a State legislator, Delegate Kelly is entitled by law to the names and home addresses of teachers and other certificated employees of the Allegany County Board of Education. For reasons detailed below, it is our view that Delegate Kelly is entitled to the names and home addresses of these personnel under §10-612(c) of the State Government Article.

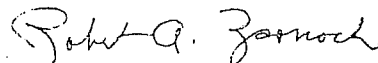
Section 10-617(e) of the State Government Article, which was enacted in 1980, generally bars inspection of public records that contain the home address of a public employee. However, the scope of that legislation was clearly modified by a 1982 enactment (Chapter 431, Laws of 1982). Among other things, the 1982 law allowed an individual to obtain access to the business address of a licensee "or, if the business address is not available, the home address." But, more significantly, the 1982 legislation was amended on the floor by Senator Thomas P. O'Reilly to authorize members of the General Assembly to obtain "the names and addresses of and statistical information about individuals who are licensed or, as required by a law of the State, registered."

There are four reasons why I believe the latter provision authorizes legislator access to home addresses of teacher

"licensees". First, the language of §10-612(c) is unqualified and the purpose of the O'Reilly amendment was clearly intended to allow a legislator access to such names and addresses for purposes of political solicitation. Second, because §10-617(h) would allow anyone to obtain teacher licensee "business addresses", §10-612(c) would be superfluous, if it authorized legislator access only to business addresses of teachers. Third, as far as administrative construction is concerned, it is my understanding that while the Department of Licensing and Regulation has construed §10-617(h) strictly, it has allowed legislators free access to licensee records under §10-612(c). Finally, because §10-612(c) was the last provision enacted, it should prevail in the event of any inconsistency with §10-617(e).

In summary, it is our view that §10-612(c) would authorize Delegate Kelly to obtain the home addresses of teachers and certificated employees in Allegany County. I have consulted with Assistant Attorney General Jack Schwartz, Chief Counsel for Opinions and Advice, and Assistant Attorney General Valerie Cloutier, Counsel to the Department of Education, and they concur in this advice.

Sincerely,



Robert A. Zarnoch
Assistant Attorney General
Counsel to the General Assembly

RAZ:maa

cc: Delegate Kevin Kelly
Jack Schwartz
Valerie Cloutier