



Office of the Attorney General

State of Texas

March 31, 1992

DAN MORALES

ATTORNEY GENERAL

Mr. Robert Giddings
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2981

OR92-137

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14201.

You have received a request for information relating to the promotion and tenure decision of the University of Texas System ("the university") and the related review process regarding a certain faculty member. The requestor, who is the faculty member at question here, specifically seeks access to information relating to his appeal of the university's promotion and tenure decision and records detailing his previous open records requests. You wish to delete some of the information from records responsive to the request, claiming it is excepted from required public disclosure by section 3(a)(11) of the Open Records Act.

We have considered the exception you claim and have reviewed the documents submitted to us. Previous open records decisions resolve your request. Section 3(a)(11) excepts:

inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency. V.T.C.S. art. 6252-17a, 3(a)(11).

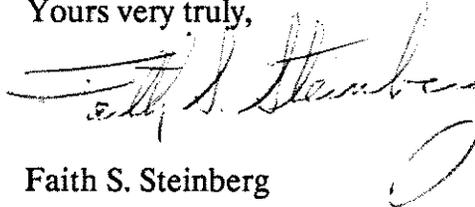
Section 3(a)(11) excepts memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policy-making or deliberative process. Open Records Decision No. 466 (1987) at 1 (copy enclosed). However, facts and written observations of fact which are severable from

material excepted under section 3(a)(11) must be disclosed. Open Records Decision No. 582 (1990).

You have submitted to us for review documents responsive to the request and have marked the information which you claim is excepted under section 3(a)(11). Because we presume the remaining information to be public, we will only address the applicability of section 3(a)(11) to the marked portions. Portions of the information which you claim is excepted from required public disclosure by section 3(a)(11) contains advice, opinion, or recommendation, or information inextricably intertwined with such material. Other portions contain factual information not excepted under section 3(a)(11). We have marked those portions of the documents for which the section 3(a)(11) exception does not apply. The remaining information for which you claim the section 3(a)(11) exception may be withheld.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-137.

Yours very truly,



Faith S. Steinberg
Assistant Attorney General
Opinion Committee

FS/GK/nhb

Enclosures: Marked Documents
Open Records Decision No. 466

Ref.: D# 14201
ID# 14323

cc: Dr. Philip D. Olivier
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(w/o enclosures)