



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 16, 1995

Ms. Renée Vaughn
Associate General Counsel
Texas Tech University Health Sciences Center
Office of Vice President and General Counsel
P.O. Box 42021
Lubbock, Texas 79409-2021

OR95-125

Dear Ms. Vaughn:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30339.

Texas Tech University (the "university") received a request for information relating to a particular department's peer evaluations. The university contends the requested information is excepted from required public disclosure under section 552.111 of the Government Code.

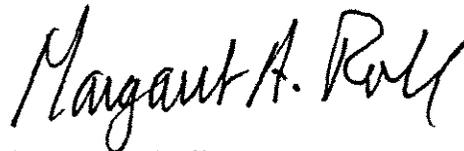
Section 552.111 excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In a recent opinion that reexamined the section 552.111 exception, this office concluded that section 552.111 excepts from public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993) at 5. The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from disclosure. *Id.*

Although your brief indicates that the university is aware of the holding in Open Records Decision No. 615 and that the documents in question consist of routine internal administrative personnel matters not excepted under section 552.111, you suggest that

this office should reconsider the interpretation of section 552.111 in Open Records Decision No. 615 in light of a July 25, 1994, ruling in *Klein Independent School District v. Lett*, No. 93-061897 (80th Dist. Ct., Harris County, Tex., July 25, 1994). This office is not a party to that action. Furthermore, appellate courts in Texas do not rely upon unpublished opinions as authority. *Wheeler v. Aldama-Luebbert*, 707 S.W.2d 213, 216 (Tex. App.--Houston [1st Dist.] 1986, no writ) ("An unpublished opinion of this Court or any other court has no authoritative value."); *see also* Tex. R. App. P. 90(i) ("Unpublished opinions shall not be cited as authority by counsel or by a court."); *Orix Credit Alliance v. Omnibank*, 858 S.W.2d 586, 593 n.4 (Tex. App.--Houston [14th Dist.] 1993, writ dismissed); *Carlisle v. Philip Morris, Inc.*, 805 S.W.2d 498, 501 (Tex. App.--Austin 1991, writ denied). For this reason, the Office of the Attorney General generally does not consider unpublished rulings in making determinations under the Open Records Act. Furthermore, this office continues to adhere to Open Records Decision No. 615. You may not, therefore, withhold the requested information under section 552.111 of the Government Code. The documents must be released in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/LBC/rho

Ref.: ID# 30339

Enclosures: Submitted documents

cc: Mr. Mike Bobo
1704 Avenue X
Lubbock, Texas 79401
(w/o enclosures)