



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 16, 1996

Mr. David M. Feldman  
Feldman & Associates  
12 Greenway Plaza, Suite 1202  
Houston, Texas 77046

OR96-1477

Dear Mr. Feldman:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. We assigned your request ID# 25425.

The Fort Bend Independent School District (the "school district") received a request for information relating to playground equipment in the district. You advise us that the school district made most of the requested information available to the requestor. You object, however, to releasing a certain memorandum, which you have submitted to us for review, and claim that section 552.111 of the Government Code exempts it from required public disclosure.

We note initially that you requested a decision from this office more than ten days after the request was submitted to the school district. However, the section 552.301 ten-day deadline for requesting a decision from this office does not start to run during the time that the requestor and a governmental body are attempting to resolve access to the records informally when there is legitimate confusion as to the scope of the records.<sup>1</sup> Open Records Decision No. 333 (1982). It appears from your letter that the school district and the requestor were trying to informally resolve access to the records at issue and that there was some confusion concerning the scope of the request. Thus, it appears that your request to this office for a decision was made timely.

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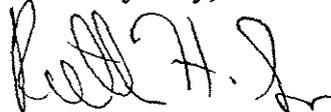
<sup>1</sup>However, as the time period for requesting a decision from this office is set by statute, the requestor cannot agree to simply "waive" the ten day requirement. See Gov't Code § 552.302 (failure to make timely request for decision results in presumption information is public).

Section 552.111 excepts from disclosure an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office concluded that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. In addition, this office concluded that an agency's policymaking functions do not encompass internal administrative or personnel matters, because disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* Moreover, section 552.111 does not except from disclosure purely factual information. *Id.*

We have examined the memorandum submitted to us for review and have marked the information that section 552.111 protects from disclosure. The remaining information must be provided to the requestor.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 25425

Enclosures: Submitted documents

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