



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 31, 1998

Mr. Elton Caldwell  
Brownsboro Independent School District  
P.O. Box 465  
Brownsboro, Texas 75756

OR98-3314

Dear Mr. Caldwell:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121726.

The Brownsboro Independent School District (the "district") received the following request:

I request that I be provided a school board meeting information packet which includes all agenda items and support information as provided to all members of the Brownsboro ISD Board of Trustees prior to each regular and special meeting. I ask that this information packet be provided in order that I can reasonably follow, and understand, the discussion of the trustees during these open public meetings.

You state that the school board packets are "finalized and bound on Monday afternoon prior to the board meeting" that is held the same day and that "[m]ost of the information, but not all of the information, contained in these information booklets is obviously public information." However, you object to this request because it is made prior to the creation of the records, and you assert that it is a standing request for documents.

The school board is not obligated, in response to a request for records, to compile new documents or to provide information which does not exist yet. Open Records Decision Nos. 561 at 9 (1990) (governmental body does not have to obtain new information); 483 at 2 (1987), 452 at 3 (1986) (open records request applies to information in existence when request is received); 362 at 2 (1983) (governmental body does not have to supply information which does not exist). Thus, a governmental body is not required to comply with a continuing request to supply information as it is prepared in the future.

We note, however, that the requestor provided this office with a copy of a November 3, 1998 letter he received from your office. In that letter, you stated:

If you want to receive a board packet, you will need to request a board packet each month after the information is gathered, written and compiled. Following your timely request, this office will then have ten days to decide what information can appropriately be released and all appropriate information will be released.

As we have explained, the district is not required to supply documents in response to a standing request for records. However, it is appropriate for the requestor to request, in writing, the documents once they are created. See Gov't Code § 552.301 ("written request" includes request made in writing by electronic mail or facsimile transmission). However, in your letter to this office, you stated that much of the information in the packets is "clearly public." Section 552.221(a) provides that public information must be "promptly" provided to the requestor. If information is not immediately available because "it is in active use or storage" that fact must be certified in writing and a reasonable time set for providing the public information. Gov't Code § 552.221(c). Information that is not promptly available due to its being in active use or storage must be provided within ten business days or else that fact must be certified in writing. Gov't Code § 552.221(d). Thus, if you determine that any of the information is public, prior to the meeting, and the requestor submits a written request for that public portion of the meeting packet, you must promptly release the public portion of the meeting packet.

If a governmental body knows that some of the requested records are public but believes that others may be excepted from disclosure on the basis of an exception under the Open Records Act that the governmental body wishes to assert, then the records which are public must be promptly provided to the requestor. Gov't Code § 552.221(a). The governmental body is required to seek a decision from this office concerning the records "that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions" of the Open Records Act. Gov't Code § 552.301. Such request to this office must be made "within a reasonable time but not later than the tenth business day after the date of receiving the written request." *Id.*

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,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref: ID# 121726

cc: Mr. Jeff Tuley  
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