



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2009

Ms. Cheryl T. Mehl
Scwartz & Eichelbaum Wardell Mehl and Hansen, P.C.
Attorney for Gatesville Independent School District
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2009-07773

Dear Ms. Mehl:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 350218.

The Gatesville Independent School District (the "district"), which you represent, received a request for the audio recording or certified agenda of a specified meeting. You state the requested recording does not exist.¹ You claim the requested certified agenda is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 551.104 of the Open Meetings Act, chapter 551 of the Government Code. Section 551.104 provides in part that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3)." *Id.* §551.104(c). Thus, such information cannot be released to a member of the public in response to an open records request.² See Attorney General Opinion JM-995 at 5-6 (1988) (public disclosure of certified agenda of closed

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992); 563 at 8 (1990), 555 at 1-2 (1990).

²We note the district is not required to submit a certified agenda or tape recording of a closed meeting to this office for review. See Open Records Decision No. 495 at 4 (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information from disclosure under statutory predecessor to section 552.101 of the Government Code).

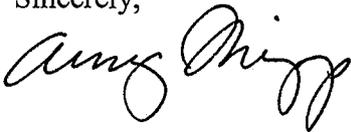
meeting may be accomplished only under procedures provided in Open Meetings Act). Section 551.146 of the Open Meetings Act makes it a criminal offense to disclose a certified agenda or tape recording of a lawfully closed meeting to a member of the public. *See* Gov't Code § 551.146(a)-(b); *see also* Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether governmental body may withhold such information under statutory predecessor to Gov't Code § 552.101).

You state the requestor seeks access to the certified agenda of a closed meeting of the district's board. We agree the district must withhold the responsive certified agenda from the closed meeting under section 552.101 of the Government Code in conjunction with section 551.104 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 350218

Enc. Submitted documents

cc: Requestor
(w/o enclosures)