



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2015

Ms. Anne Marie Odefey
Counsel for Calhoun County Independent School District
Roberts, Roberts, Odefey, and Witte, L.L.P.
P.O. Box 9
Port Lavaca, Texas 77979

OR2015-21223

Dear Ms. Odefey:

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# 582674.

The Calhoun County Independent School District (the "district"), which you represent, received a request for each "staff information page" that was provided to district board members for each agenda item discussed during the open session of a specified district meeting. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.111 of the Government Code 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[.]" Gov't Code § 552.111. This exception encompasses the deliberative process privilege. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.—San Antonio 1982, writ ref'd n.r.e.); Open Records Decision No. 538 at 1-2 (1990).

In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. See ORD 615 at 5. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; see also *City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions include administrative and personnel matters of broad scope that affect the governmental body's policy mission. See Open Records Decision No. 631 at 3 (1995). Further, section 552.111 does not protect facts and written observations of facts and events that are severable from advice, opinions, and recommendations. See ORD 615 at 5. But if factual information is so inextricably intertwined with material involving advice, opinion, or recommendation as to make severance of the factual data impractical, the factual information also may be withheld under section 552.111. See Open Records Decision No. 313 at 3 (1982).

You state the submitted information consists of policy recommendations from district staff for matters before the district's school board during a monthly school board meeting. You assert the submitted information is prepared by district staff for the benefit of the school board's deliberative process. Based on your representations and our review of the submitted information, we find you have demonstrated portions of the submitted information, which we have marked, consist of advice, opinions, or recommendations on the policymaking matters of the district. Thus, the district may withhold the marked information under section 552.111 of the Government Code. Upon review, however, we find the remaining information is general administrative and purely factual information or does not pertain to policymaking. Thus, we find the district has failed to show how the remaining information consists of advice, opinions, or recommendations on the policymaking matters of the district. Accordingly, the remaining information may not be withheld under section 552.111 of the Government Code and must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Ramsey Abarca".

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 582674

Enc. Submitted documents

c: Requestor
(w/o enclosures)