



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 1, 2016

Ms. Ylise Janssen  
General Counsel  
Office of General Counsel  
Austin Independent School District  
1111 West Sixth Street  
Austin, Texas 78703

OR2016-07275

Dear Ms. Janssen:

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# 604086.

The Austin Independent School District (the "district") received a request for the draft timeline pertaining to the district's equity self-assessment. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code.<sup>1</sup> We have also received and considered the requestor's comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information). We have considered the submitted arguments 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[.]" *Id.* § 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

---

<sup>1</sup>Although you also raise section 552.101 of the Government Code, you have provided no arguments explaining how this exception is applicable to the submitted information. Therefore, we assume you no longer assert this exception. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

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, we determined section 552.111 exempts 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, 364 (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 severable from advice, opinions, and recommendations. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152, 157 (Tex. App.—Austin 2001, no pet.); *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, section 552.111 protects the factual information. *See* Open Records Decision No. 313 at 3 (1982).

This office has also concluded section 552.111 exempts from disclosure a preliminary draft of a document intended for public release in its final form because the draft necessarily represents the drafter's advice, opinion, and recommendation with regard to the form and content of the final document. *See* Open Records Decision No. 559 at 2 (1990) (applying statutory predecessor). Section 552.111 protects factual information in the draft that also will be included in the final version of the document. *See id.* at 2-3. Thus, section 552.111 encompasses the entire contents of a preliminary draft of a policymaking document, including comments, underlining, deletions, and proofreading marks, that will be released to the public in its final form. *See id.* at 2.

You state the submitted information contains the advice, opinions, and recommendations relating to the district's policymaking. You also state the submitted information consists of a draft document. You do not state whether the draft document will be released to the public in its final form. Thus, to the extent the district will release the submitted draft document to the public in its final form, the district may withhold the submitted draft document in its entirety under section 552.111 of the Government Code. To the extent the district will not release the draft document to the public in its final form, the district may not withhold the submitted draft document in its entirety under section 552.111. In this case, we find portions of the draft document constitute advice, opinions, or recommendations relating to the district's policymaking. Thus, to the extent the draft document will not be released in its final form, the district may withhold the information we have marked under section 552.111

within the submitted draft document. However, we find the remaining information consists of either general administrative information that does not relate to policymaking or information that is purely factual in nature. Therefore, the remaining information may not be withheld under section 552.111.

In summary, to the extent the district will release the submitted draft document to the public in its final form, the district may withhold the submitted draft document in its entirety under section 552.111 of the Government Code. To the extent the district will not release the submitted draft document to the public in its final form, the district may withhold the information we have marked under section 552.111 within the draft document, but must release the remaining information.

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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

Ref: ID# 604086

Enc. Submitted documents

c: Requestor  
(w/o enclosures)