



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 13, 2016

Ms. Rebecca Bailey Weimer
Counsel for the Pasadena Independent School District
Thompson & Horton, L.L.P.
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027-7528

OR2016-20621

Dear Ms. Weimer:

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# 626499.

The Pasadena Independent School District (the "district"), which you represent, received a request for the video recording and transcript of a specified hearing. You state the district did not have a copy of the requested transcript at the time the district received the request for information.¹ You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note you only seek to withhold information pertaining to the closed portion of the hearing. To the extent information responsive to the remainder of the request existed on the date the district received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses information protected by other statutes, such as 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). We 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 (1988) (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). Such information cannot be released to a member of the public in response to an open records request. *See* Attorney General Opinion JM-995 at 5-6 (1988) (public disclosure of certified agenda of closed 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* ORD 495 at 4. You state the requestor seeks access to a video recording of a closed meeting in which the district’s board of trustees conducted a grievance hearing. Based on your representation, we conclude the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 551.104(c) 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.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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

Ref: ID# 626499

Enc. Submitted documents

c: Requestor
(w/o enclosures)