



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL,  
ATTORNEY GENERAL**

May 20, 1976

The Honorable Lorene Rogers  
President  
The University of Texas  
Austin, Texas 78701

Attention: W. O. Shultz, II

Open Records Decision No.128

Re: Request for correspondence relating to a decision of a university not to offer certain courses.

Dear Dr. Rogers:

Pursuant to section 7 of the Open Records Act, article 6252-17a, V.T.C.S., you request our decision as to whether several pieces of correspondence between administrators at the University of Texas at Austin are public. An individual has requested access to these documents, which involve a decision to decline to provide certain courses in the summer session.

Of the seven items which were requested, you indicate that six exist. You contend that all six are excepted from disclosure by section 3(a)(11) of the Act, which provides an exception to the disclosure requirements of the Act for

inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency.

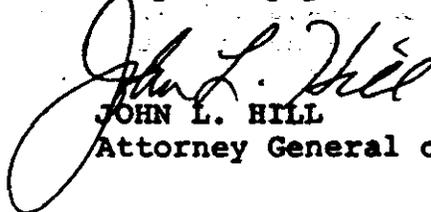
We discussed this exception extensively in Attorney General Opinion H-436 (1974). We said that the exception was to be interpreted in the same manner as the similar provision of the federal act. We indicated:

The exemption in the federal act was specifically designed to protect from disclosure advice and opinion on policy matters and to encourage open and frank discussion between subordinate and chief concerning administrative action. [Citations omitted]. The exception is based on a recognized privilege from discovery afforded to deliberations or recommendations as to policy. [Citations omitted].

It is clear that some of the letters covered by this request include advice and opinion on policy matters. Those portions of the requested documents which consist of advice and recommendations are not required to be disclosed. However, the mere fact that a document contains some information that is excepted from disclosure by section 3(a)(11) does not provide a basis for exception of the entire document. To the extent that the material which can be disclosed can be severed from the excepted information, it must be provided.

The six documents you have provided us are numbered to correspond to the numbers of the items outlined in the individual's request. It is our decision that all of document number one may be withheld from disclosure. Documents number 4, 5 and 6 are required to be disclosed in their entirety. Portions of documents number 2 and 3 may be withheld from disclosure. For your convenience, we have enclosed copies of the six documents which we have marked to indicate the portions which are not required to be revealed. See Open Records Decision No. 82 (1975). Of course, the University has the option of revealing information which it is permitted to withhold under section 3(a)(11). V.T.C.S. art. 6252-17a, § 3(c); Open Records Decision No. 18A (1974).

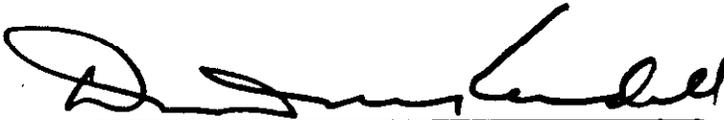
Very truly yours,



JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb