



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 28, 1993

Mr. Denis Dennis
McMahon, Tidwell, Hansen,
Atkins & Fowler, P.C.
P.O. Box 1311
Odessa, Texas 79760

OR93-750

Dear Mr. Dennis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 19376.

The Ector County Independent School District (the "school district"), which you represent, has received a request for a copy of a school district employee's personnel file. You state that the district has released to the requestor portions of the personnel file. You claim, however, that some of the requested information constitutes advice, opinions, and recommendations used in evaluating the employee and as such comes under the protection of former section 3(a)(11) of the act (found now at section 552.111 of the Government Code).

Section 552.111 of the Government Code protects interagency and intraagency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615, this office held that:

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters (Emphasis in original.)

The information you seek to withhold consists of the employee's performance evaluations and her responses to those evaluations. These records pertain solely to "routine internal administrative and personnel matters" and consequently may not be withheld pursuant to section 552.111. Because you have raised none of the act's other exceptions to required public disclosure, the district must release these records in their entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,


Rebecca L. Payne
Section Chief
Open Government Section

RLP/RWP/rho

Ref.: ID# 19376

Enclosures: Submitted documents

cc: Mr. Terry Jordan
5775 Greenway
Odessa, Texas 79764
(w/o enclosures)