



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 18, 1994

Mr. Randel B. Gibbs
Mr. Michael S. Mitchell
Law Offices of Earl Luna, P.C.
4411 Central Building
4411 North Central Expressway
Dallas, Texas 75205

OR94-380

Dear Mr. Gibbs and Mr. Mitchell:

On behalf of the Palmer Independent School District ("PISD"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24718.

PISD has received a request for "[a]ny and all documents concerning [three named PISD employees], including, but not limited to[,] their employee jackets." You state that PISD already has released to the requestor all of the requested information "except for those items (such as grades on transcripts) which previous rulings have excepted from disclosure," as well as the performance evaluations of the listed employees. You ask for our decision only in regard to the performance evaluations.

You have not submitted to this office copies of the performance evaluations requested, although you have submitted blank performance evaluation forms for our review. Section 552.302 of the Government Code requires a governmental body that requests an open records decision from the attorney general to supply the attorney general with "the specific information requested." In this case, without the specific information requested, we are unable to determine whether the requested information includes any confidential information. Any person who distributes confidential information commits a misdemeanor punishable by a fine of not more than \$1000, confinement in the county jail for not more than six months, or both. Gov't Code § 552.332. We caution you that PISD must not release any confidential information, *i.e.*, information excepted from required public disclosure by section 552.101 of the Government Code, contained in the requested performance evaluations.

You claim that section 552.111 of the Government Code excepts the requested information from required public disclosure. Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This office has interpreted section 552.111 to exempt advice, opinion, and recommendation related to the policymaking functions of a governmental body. Open Records Decision No. 615 (1993) at 5. A governmental body's policymaking functions generally do not encompass routine internal administrative and personnel matters. *Id.*

The performance evaluation forms you have submitted appear to solicit advice, opinion, and recommendation related to routine personnel matters. To the extent that the requested information includes any advice, opinion, and recommendation related to PISD's policymaking functions, we believe that PISD has failed to demonstrate that section 552.111 applies. Accordingly, we conclude that PISD may not withhold the requested performance evaluations from required public disclosure.

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

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LRD/rho

Ref.: ID# 24718

Enclosures: Submitted documents

cc: Ms. Priscilla Rogers
5802 South Stacks Street
Palmer, Texas 75152
(w/o enclosures)