



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 16, 1996

Dr. Randy Albers
Superintendent of Schools
Midway Independent School District
1205 Foundation Drive
Waco, Texas 76712

OR96-0727

Dear Mr. Albers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39017.

The Midway Independent School District (the "district") received a request for the minutes taken of meetings of the district's Health Curriculum Review Committee. You have submitted a copy of these minutes for our review and contend that they are excepted from disclosure under section 552.111 of the Government Code.

Section 552.111 excepts from disclosure "only those internal agency communications consisting of advice, recommendations, opinions and other material reflecting the deliberative or policymaking processes of the governmental body at issue." *Open Records Decision No. 615 (1993) at 5*. This exception is intended to protect advice and opinions given on policy matters and to encourage frank and open discussions within an agency in connection with the agency's decision-making processes. *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex. App.--Austin 1992, no writ) (citing *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.)). This section does not protect facts or written observations of facts. *Open Records Decision No. 615 (1993) at 5*.

Initially, we note that the minutes for two meetings, held on December 5th and 8th, 1994, state that the meetings were public meetings. If a meeting was in fact open to the public, regardless of whether the Open Meetings Act applied or required that the meeting be held in public, no basis would exist for withholding a document which disclosed the contents of the meeting.¹ *See Open Records Decision No. 461 (1987) at 5*.

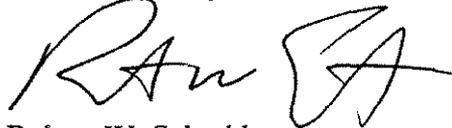
¹Section 551.022 of the Government Code also provides that the minutes of an open meeting are public records that shall be available for public inspection. We specifically do not address in this ruling,

Specifically, minutes of an open meeting may not be withheld under section 552.111 because the contents of the meeting have been previously made available to the public during the open meeting. *See* Open Records Decision No. 400 (1983) at 2 (information previously made available to member of public not excepted under statutory predecessor to section 552.111). Thus, the minutes of the meetings held on December 5 and 8, 1994, as well as the minutes of any other meeting that was open to the public, may not be withheld under section 552.111.

In the event that the other meetings were not open to the public, we address whether section 552.111 excepts from disclosure the minutes of these meetings. We agree that the information generally contained in the meeting minutes relates to the policy-making functions of the district. *See e.g.* Open Records Decision No. 631 (1995). However, much of the information you submitted is factual in nature or this office was otherwise unable to determine that the information was advice, opinion, or recommendation. Because section 552.111 only excepts from disclosure advice, opinion, or recommendation relating to policy-making matters, all other information may not be withheld from disclosure. Assuming that the meetings were not, in fact, open to the public, and that the meetings were not required to be open to the public under the Open Meetings Act, you may withhold from public disclosure under section 552.111 the information we have marked.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

(Footnote continued)

however, whether or not the meetings of the Health Curriculum Review Committee were required to be open to the public under the Open Meetings Act.

²We note, however, that section 552.111 is a discretionary exception and that a governmental body may choose to release information protected by section 552.111. Open Records Decision No. 470 (1987). Section 552.007, however, prohibits selective disclosure. If a governmental body releases information that it may have withheld pursuant to an exception under the act, it must release the information to all who request it.

RWS/rho

Ref.: ID# 39017

Enclosures: Marked documents

cc: Mr. Joe Neal
8713 Panther Drive
Woodway, Texas 76712
(w/o enclosures)