



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 15, 1997

Mr. Therold I. Farmer
Walsh, Anderson, Underwood, Schultz & Aldridge
P.O. Box 2156
Austin, Texas 78768

OR97-1110

Dear Mr. Farmer:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105789.

The Kemp Independent School District (the "district"), which you represent, received a request for a copy of the tape which recorded a certain executive session of the school board. The executive session concerned a student disciplinary appeal and was conducted as a closed meeting pursuant to section 551.082 of the Government Code. The parent of the disciplined student was present at the executive session. The requestor in this case is this same parent. You explain that you do not object to releasing the recording to this particular requestor because she was present at the meeting and because she is a "party" to the action. You question, however, whether you have authority to do so.

Section 551.104(c) of the Government Code states that a "certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order." Thus, the district's executive session tapes must not be disclosed unless a court rules otherwise in an action filed under the Open Meetings Act. Gov't Code 551.104; Open Records Decision No. 495 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions). We do not believe that under the circumstances presented that you are permitted to release the tape of the closed meeting to the requestor. Absent a court order, you must withhold the requested tape recording.¹

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

¹We do not address whether the tape of the executive session is an "education record" under the Family Educational Rights and Privacy Act to which the requestor, as a parent, may have a right of access; nor do we address whether a parent who has a right of access to education records of their child under federal law may only obtain this information pursuant to court order. 20 U.S.C. §§ 1232g(a)(1)(A); 1232g(a)(4)(A); Gov't Code 551.104; Open Records Decision No. 634 (1995).

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,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive style with a large, prominent initial "D".

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 105789

cc: Ms. Alicia K. Smith
P.O. Box 646
Kemp, Texas 75143