



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 22, 1997

Mr. Henry Boening
Superintendent
Galveston Independent School District
P.O. Box 660
Galveston, Texas 77553

OR97-1666

Dear Mr. Boening:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107415.

The Galveston Independent School District (the "school district") received a request for "an unaltered copy of the curriculum audit report commissioned by the school district in the fall of 1996." You state that the requested report "is in draft form only," and, therefore, contend that it is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and have reviewed the report at issue.

Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." This exception applies not only to a governmental body's internal memoranda, but also to memoranda prepared for a governmental body by its outside consultant. Open Records Decision Nos. 462 (1987) at 14, 298 (1981) at 2. In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Section 552.111 does not generally except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5.

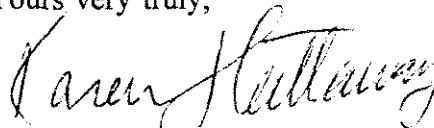
The preliminary draft of a policymaking document that has been released or is intended for release in a final form is excepted from disclosure in its entirety under section 552.111 because such a draft necessarily represents the advice, recommendations, or opinions of the drafter as to the form and content of the final document. Open Records Decision No. 559 (1990). The draft itself, including comments, underlining, deletions, and proofreading marks, is excepted

from disclosure by section 552.111. *Id.* Purely factual matter, where severable, must generally be released. *Id.* However, when such factual matter is contained in the final version of the document, the release of the final version satisfies this requirement. *Id.*

The school district commissioned the Texas Association of School Administrators (the "association") to prepare the requested report for the school district. Your letter and a letter from the association indicate that the report is presently in draft form, and that the school district and the association are working together "in preparation for the issuance of a final report." The report contains advice, opinions, and recommendations reflecting the policymaking processes of the school district. Under these circumstances, we conclude that the school district may withhold the draft report from disclosure in its entirety under section 552.111 in anticipation of releasing the report in final form.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 107415

Enclosures: Submitted report

cc: Ms. Karen Voris
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Galveston, Texas 77554
(w/o enclosures)