



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 17, 1998

Mr. Jerry Hoodenpyle
Attorney at Law
1323 West Pioneer Parkway, Spur 303
Arlington, Texas 76013

OR98-3164

Dear Mr. Hoodenpyle:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 120705.

The Arlington Independent School District (the district) received a request for the "results of the March 1998 school effectiveness survey for professional staff, including any and all written comments, for each and every school district." You claim that the requested information is excepted from required public disclosure by section 552.111 of the Government Code. You have submitted a sample of the documents at issue.¹

You explain that the information at issue was created in connection with the district's site-based decision making process mandated by the Legislature. Educ. Code §§ 11.251 - .253. The district conducted an anonymous school effectiveness survey to gather professional staff input on matters affecting the learning environment and student performance. The survey asked 113 questions to be answered using a range of provided answers. The survey also allowed respondents to express additional comments beyond the illicited answers. You have provided this office with a blank survey and the results of the

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

completed survey of several schools. The results are shown in a bar graph listing several broad categories, a compilation of responses by aggregate percentages for each illicit answer, and the transcribed narrative comments. You contend that release of the requested survey results will inhibit the district's ability to gather candid, truthful responses from professional staff in its site-based decision-making process. We have considered your arguments.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." 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. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. Open Records Decision No. 615 (1993) at 5-6. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5.

You assert that the survey responses reflect the broad scope of the district's educational policy mission. We agree that the responses to the survey in this instance relate to the district's policymaking functions. See Open Records Decision No. 631 (1995). We have previously held, nonetheless, that similar information reflecting the compilation of a survey's results was not protected by section 552.111. That conclusion was based on the fact that the compiled results of a survey were not a part of the decisional process. Open Records Decision Nos. 464 at 4 (1987) (compiled survey responses to the declarative statements released), 209 at 3 (1978). Likewise, the resulting response percentages here appear to simply be informational and provide the raw data upon which decisions may be made. Open Records Decision Nos. 419 at 4 (1984) (statistical summaries of opinion survey results are not excepted from by section 552.111), 209 at 3 (1978). Furthermore, we stated that "[a]lthough these responses may reflect the subjective opinion of the evaluator, their release will not impair the deliberative process . . . because the questions are anonymous." ORD 464 at 4-5; see Open Records Decision No. 482 at 7 (1982) (subjective responses to declarative statements released), 206 (1978), 197 (1978). We have, on the other hand, found that narrative responses may be withheld under section 552.111. ORD 464 at 5. These comments are not necessarily anonymous, are less factual in nature, and may reflect the respondent's advice or opinion. ORD 209 at 2. Consequently, we find that the transcribed additional narrative comments may be withheld under section 552.111. The other results, consisting of the bar graph listing several broad categories and the compilation of responses to questions by aggregate percentages for each illicit answer, must be released.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 120705

Enclosures: Submitted documents

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(w/o enclosures)