



December 6, 2000

Mr. Rodolfo M. Gonzalez
Law Office of Rodolfo M. Gonzalez, P.C.
901 West Ferguson Street
Pharr, Texas 78577

OR2000-4613

Dear Mr. Gonzalez:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 142498.

The Pharr-San Juan-Alamo School District ("PSJA"), which you represent, received a request for tape recordings of an executive meeting, a list of individuals who were present during the grievance conference, and information relating to personnel reclassification. You claim that the audiotape of a closed meeting is excepted from disclosure under section 551.104(c) of the Government Code. We assume that you have released the remaining requested information to the requestor. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions, including section 551.104(c) of the Government Code. Section 551.103 of the Government Code requires that governmental bodies keep records of executive sessions in the form of a tape recording or certified agenda. Such records are available for public inspection only by order of a court. Gov't Code § 551.104(c); Open Records Decision No. 495 (1988). Therefore, the tape recordings of executive sessions of the PSJA are confidential under section 551.104(c) of the Government Code, and thus must be withheld from disclosure under section 552.101.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

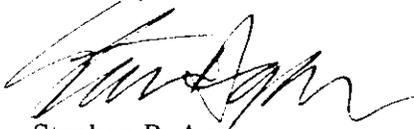
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.-Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Stephen P. Agan
Assistant Attorney General
Open Records Division

SPA/seg

Ref: ID# 142498

Encl. Submitted documents

cc: Mr. E. Matthew Gueda
Association of Texas Professional Educators
305 East Huntland Drive, Suite 300
Austin, Texas 78752-3792
(w/o enclosures)