



September 12, 2001

Ms. Patricia Muniz-Chapa  
Assistant General Counsel  
University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2001-4076

Dear Ms. Muniz-Chapa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151864.

The University of Texas at Austin (the "university") received a request for the following:

- 1.) information relating to the university's renewal negotiations with Sodexo Marriot Services and to student protests concerning that contract;
- 2.) information relating to the student protest of the custodial staff election of May 3, 2001;
- 3.) information relating to the university police department's presence at the "all hands" meeting of June 18, 2001; and
- 4.) information relating to the university's policy and practice regarding surveillance of political protests.

You inform us that the university will be releasing a majority of the documents responsive to this request. We assume that you have done so. *See* Gov't Code §§ 552.301, .302. You claim that the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.107(1) of the Government Code protects information that comes within the attorney-client privilege. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from disclosure only what Rule 1.05 of the

Texas Disciplinary Rules of Professional Conduct defines as “privileged information,” that is, either client confidences or the attorney’s legal advice or opinions; section 552.107(1) does not apply to all client information held by a governmental body’s attorney. *See* ORD 574 at 5. Section 552.107(1) does not protect purely factual information. *Id.* Thus, section 552.107(1) does not except from disclosure factual recounting of events or the documentation of calls made, meetings attended, and memos sent. *Id.* Upon careful review of the documents in question, we conclude that some of the submitted information, which we have marked, may be withheld from public disclosure under section 552.107(1).

Section 552.111 excepts from disclosure “an interagency or intra-agency memorandum or letter that would not be available by law to a party in litigation with the agency.” The purpose of section 552.111 is to protect advice, opinion, and recommendation used in the decisional process from public disclosure and to encourage open and frank discussion in the deliberative process. *See Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App. --San Antonio 1982, no writ); Open Records Decision No. 559 (1990). In Open Records Decision No. 615 (1993), this office reexamined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App. – Austin 1992, no writ). We concluded that section 552.111 excepts from required public disclosure “only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body[.]” Open Records Decision No. 615 at 5-6; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000); *Arlington Indep. Sch. Dist. v. Texas Attorney Gen.*, No. 03-00-00219-CV, 2001 WL 23169 (Tex. App.--Austin 2001, no pet. h.). Section 552.111 generally does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. After review of your arguments and the submitted information, we conclude that portions of the information, which we have marked, are excepted from public disclosure and may be withheld under section 552.111.

In summary, the university may withhold portions of the submitted information that we have marked under section 552.107(1) of the Government Code. The university may also withhold marked portions of the information under section 552.111. The remaining information must be released to the requestor.

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,



J. Steven Bohl  
Assistant Attorney General  
Open Records Division

JSB/sdk

Ref: ID# 151864

Enc: Submitted documents

c: Mr. Bob Libal  
Vice President  
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(w/o enclosures)