



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 25, 2010

Mr. Bobby Padgett
Henslee Schwartz, L.L.P.
306 West 7th Street, Suite 1045
Fort Worth, Texas 76102

OR2010-16090

Dear Mr. Padgett:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 397793.

The Cleburne Independent School District (the "district"), which you represent, received a request for the "back-up material" regarding three specified agenda items pertaining to the August 9, 2010, school board (the "board") meeting, including an official copy of the superintendent's instructions to the board about voting to accept the Strategic Plan Report.¹ You state the district has provided some of the requested information to the requestor. You claim the submitted agenda notes and instructions are excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, you have marked portions of the submitted information as being non-responsive to the request for information. Upon review, we agree this information is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

You claim the submitted responsive information is excepted from disclosure under the deliberative process privilege encompassed by section 552.111 of the Government Code. *See* Open Records Decision No. 615 at 2 (1993). The purpose of section 552.111 is to protect advice, opinion, and recommendation in the decisional process and to encourage open

¹You state, and provide documentation showing, the district received clarification from the requestor regarding a portion of the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

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. 538 at 1-2 (1990).

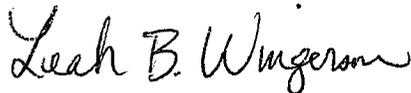
In Open Records Decision No. 615, this office re-examined the statutory predecessor to section 552.111 in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.—Austin 1992, no writ). We determined section 552.111 excepts from disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. *See* ORD 615 at 5. Likewise, section 552.111 does not generally except from disclosure purely factual information severable from the opinion portions of internal memoranda. *Arlington Indep. Sch. Dist. v. Tex. Attorney Gen.*, 37 S.W.3d 152 (Tex. App.—Austin 2001, no pet.); ORD 615 at 4-5.

You contend the submitted responsive agenda notes and instructions pertain to communications regarding the adoption of the district's strategic plan. Based on your arguments and our review, we find you have sufficiently demonstrated how the information at issue pertains to the district's policymaking processes. You assert, and we agree, the information consists of the advice, recommendations, and opinions of district officials regarding the policy matter at issue. Accordingly, we find you have established the deliberative process privilege is applicable to the responsive information, and the information may be withheld under section 552.111 of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

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Enc. Submitted documents

c: Requestor
(w/o enclosures)