



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 1, 2010

Dr. John J. Janssen
Staff Attorney
Office of Legal Services
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2010-16469

Dear Dr. Janssen:

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# 398682.

The Corpus Christi Independent School District (the "district") received a request for information pertaining to the selection and hiring process for a specified high school principal position, including rating information for each candidate interviewed, and recent changes in the pre-screening process. You state the district has provided some of the requested information to the requestor. You claim portions of the submitted applicant rating documents are excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To establish the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. You seek to withhold the interviewers' and applicants'

names in the submitted applicant rating documents. Although you generally indicate this information is protected by common-law privacy, you have failed to provide any arguments explaining how this information constitutes highly intimate or embarrassing information. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Furthermore, the submitted information pertains to the district's process for hiring a high school principal and we find this to be of legitimate public interest. *See* Open Records Decision No. 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees). Moreover, this office has determined an individual's name is generally not private information. *See* Open Records Decision No. 554 at 3 (1990) (stating disclosure of person's name not invasion of privacy). Thus, you have failed to demonstrate the applicability of common-law privacy to the interviewers' and applicants' names in the submitted documents. Consequently, the district may not withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy.

You indicate the interviewers' names are 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 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. A governmental body's policymaking functions do not encompass routine internal administrative or personnel matters, and disclosure of information about such matters will not inhibit free discussion of policy issues among agency personnel. *Id.*; *see also City of Garland v. Dallas Morning News*, 22 S.W.3d 351 (Tex. 2000) (section 552.111 not applicable to personnel-related communications that did not involve policymaking). A governmental body's policymaking functions do include administrative and personnel matters of broad scope that affect the governmental body's policy mission. *See* Open Records Decision No. 631 at 3 (1995). Additionally, 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.

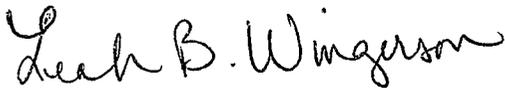
You generally contend the interviewers' names on the submitted applicant rating documents should be withheld under section 552.111. As noted above, however, section 552.111

excepts only those internal communications consisting of advice, recommendations, opinions. The interviewers' names you seek to withhold do not consist of advice, recommendations, or opinions. Furthermore, the submitted information pertains to the interviewing of candidates for a particular job. Thus, the information concerns administrative and personnel matters. As previously stated, the deliberative process privilege excepts communications relating to administrative and personnel matters of broad scope that affect a governmental body's policy mission. *See* ORD 631 at 3. In this instance, however, the information reflects it pertains to administrative and personnel issues involving the hiring process for only one district position. Therefore, you have failed to demonstrate how the deliberative process privilege applies to the interviewers' names in the submitted documents. Consequently, that information may not be withheld under section 552.111 of the Government Code. As you have not claimed any other exceptions to disclosure, the submitted information must be released.

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

Ref: ID# 398682

Enc. Submitted documents

c: Requestor
(w/o enclosures)