



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2011

Ms. Haley Turner
Walsh, Anderson, Brown, Gallegos and Green, P.C.
For San Angelo Independent School District
P.O. Box 2156
Austin, Texas 78768

OR2011-07065

Dear Ms. Turner:

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# 423240.

The San Angelo Independent School District (the "district"), which you represent, received a request for the audio recording and transcript from a specified grievance hearing. You state the district does not have a transcript of the recording.¹ You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.²

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 information protected by other statutes. You raise section 552.101 in conjunction with section 551.104 of the Open Meetings Act, chapter 551 of the Government Code. Section 551.104 provides in part that "[t]he certified agenda or tape of a closed meeting is available for public inspection and copying only under

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We note that the district is not required to submit the certified agenda or audio recording of a closed meeting to this office for review. *See* Open Records Decision No. 495 at 4 (1988) (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information under statutory predecessor to Gov't Code § 552.101).

a court order issued under Subsection (b)(3).” *Id.* §551.104(c). Thus, such information cannot be released to a member of the public in response to an open records request. *See* Attorney General Opinion JM-995 at 5-6 (1988) (public disclosure of certified agenda of closed meeting may be accomplished only under procedures provided in Open Meetings Act). You inform us that the responsive information consists of the audio recording of a closed meeting of the district trustees. Based on your representations, we agree the district must withhold the audio recording of the closed meeting pursuant to section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.³

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 423240

No enclosures

c: Requestor

³We note this office issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code, without the necessity of requesting an attorney general decision.