



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2013

Mr. Nicholas J. Wagoner
Counsel for the Austin Independent School District
Roger, Morris, & Grover, L.L.P.
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2013-04704

Dear Mr. Wagoner:

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# 482132.

The Austin Independent School District (the "district"), which you represent, received two requests from the same requestor for the audio recording from a specified grievance hearing. You claim the requested information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim.

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, such as 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 a court order issued under Subsection (b)(3)." *Id.* § 551.104(c). We note the district is not required to submit a certified agenda or tape 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 from disclosure under statutory predecessor to Gov't Code § 552.101). 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). Section 551.146 of the Open Meetings Act makes it a criminal offense to disclose a certified agenda or tape recording of a lawfully closed meeting to a member of the public. *See* Gov't Code § 551.146(a)-(b); *see also* ORD 495 at 4. You inform us the requested audio recording is of a closed meeting of the district. Based on your representation, we conclude the district must withhold the audio recording of the closed meeting under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.¹ As we are able to make this determination, we do not consider your remaining argument against disclosure.

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_or1.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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 482132

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note this office issued Open Record Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including a 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.