



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

April 25, 1989

137

Mr. James W. Knowles  
Wilson, Miller, Spivey,  
Sheehy & Knowles  
Attorneys & Counselors  
P. O. Box 7339  
Tyler, Texas 75711

Dear Mr. Knowles:

This is to acknowledge your letter of March 13, 1989 in which you request this office to respond to your letter of September 27, 1988. In your previous letter, you asked whether the Tyler Junior College could properly withhold from Mr. Glenn Underwood all correspondence that you, acting as attorney for the college, have written and received. In our response to that letter, ID# 4588 dated October 27, 1988 (copy enclosed), we requested that you submit to this office additional representative samples of the correspondence for review. In order to expedite the resolution of this matter, however, this office will consider the samples of correspondence previously submitted to this office as representative of the correspondence being requested by Mr. Underwood.

Section 3(a)(7) of the Open Records Act protects, among other things, information deemed confidential pursuant to the attorney-client privilege. The attorney-client privilege protects an attorney's written advice, but only if the advice is predominantly legal, as opposed to business, in nature. Open Records Decision No. 462 (1987). The advice need not be related to litigation to be excepted under section 3(a)(7). Open Records Decision No. 462. The samples of your correspondence with the college consist of legal questions to you and your advice as to how to respond to Mr. Underwood's requests for information; as such this correspondence is confidential pursuant to the attorney-client privilege and is protected from public disclosure by section 3(a)(7) of the act. You may, therefore, withhold this type of information.

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This office wishes to clarify an issue that has arisen as the result of our quoting one of your letters to the college. In OR88-144, dated May 18, 1988, our office quoted one of your letters in which you advised Dr. Kenneth Dance that information concerning the Foundation "should be freely disseminated to the public including Mr. Underwood," even though the Foundation may not be subject to the Open Records Act. Although the college, in order to clarify the context of the quote, may want to release to Mr. Underwood portions of this particular letter (without waiving the right to withhold other protected information), it is under no obligation to do so.

Finally, Mr. Underwood has submitted to this office a comprehensive list of items (also enclosed) that he contends he has requested but never received from the college. In order to resolve once and for all the controversy surrounding Mr. Underwood's open records requests, please submit to this office, within ten days of receipt of this letter ruling, a sworn affidavit stating that the items on this list either 1) have been released, 2) will be released, 3) do not exist, or 4) have been ruled by this office as being excepted from required public disclosure under the Open Records Act. Please be specific in the affidavit about each item requested.

This office appreciates your continuing cooperation in this matter. Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-137.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee*

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/RWP/bc

Enclosures: ID# 4588  
Underwood's list of requested items

Copies to: Glenn Underwood  
3529 Cameron  
Tyler, Texas 75701

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Ref. ID# 5877  
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