



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

July 5, 1990

Ms. Kristi Franklin Hyatt  
Cotton, Bledsoe, Tighe & Dawson  
Attorney for Midland I.S.D.  
Suite 300 United Bank Building  
500 West Illinois  
Midland, Texas 79701

OR90-274

Dear Ms. Hyatt:

As attorney for the Midland Independent School District, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9200.

We have considered the exception you claimed, specifically the attorney-client privilege as incorporated into sections 3(a)(1) and 3(a)(7) of article 6252-17a, V.T.C.S., and have reviewed the document at issue. Previous determinations of this office, Open Records Decisions Nos. 412 (1984) and 380 (1983), copies of which are enclosed, resolve your request. For this reason, you may withhold the requested information.

An issue of waiver is raised by the letter from the member of the public who requested this document and is also addressed in your letter. In Open Records Decision No. 412 (1984) this office observed that some of the information contained in an attorney-client communication was made public in board meetings. The decision stated that any information that had been disclosed in the board meeting could not be withheld under the attorney-client privilege, although based on the available information, the extent of waiver could not be determined.

In the present case, a dispute exists about the extent to which the attorney's letter was made public in a school board meeting. The Attorney General cannot investigate or resolve fact questions in the opinion process, and this office is therefore unable to resolve the issue of waiver that has been raised. However, the Open Meetings Act

requires governmental bodies to prepare minutes or a tape recording of each of its open meetings. V.T.C.S. art. 6252-17, § 3B. The minutes or tapes are public records. Id. Accordingly, the portions of the letter made public at the board meeting should be available to the requestor through these sources.

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 OR90-274.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/le

Ref.: ID# 9200

Enclosure: Open Records Decision Nos. 412, 380

cc: Edmund T. Anderson, IV  
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