



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1991

Ms. Jo Ann Wright
Attorney for Fort Worth I.S.D.
Chappell & Handy
1800 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4118

OR91-349

Dear Ms. Wright

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# 12663.

The Fort Worth Independent School District (the district) received an open records request for, *inter alia*, records pertaining to "any monies that might have been paid to [the district's attorneys] relating to their representation of [the district] and/or any of its employees in any and all actions taken by or against" a former district employee. You have submitted to this office for review representative samples of attorney billing statements as responsive to the open records request. You contend that the district may withhold these statements in their entirety pursuant to the attorney-client privilege aspect of section 3(a)(1) and the litigation exception, section 3(a)(3).

Although you raise the attorney-client privilege in the context of section 3(a)(1), this privilege is more properly deemed to be an aspect of section 3(a)(7) of the act, which protects, *inter alia*, "matters in which the duty of . . . an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure." See Open Records Decision No. 574 (1990) (copy enclosed). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. *Id.* Accordingly, these two classes of information are the only information contained in attorney billing statements that may be withheld pursuant to the attorney-client privilege. See Open Records Decision No. 589 (1991) (copy enclosed) *overruling to extent of conflict* Open Records Decision No. 304 (1982).

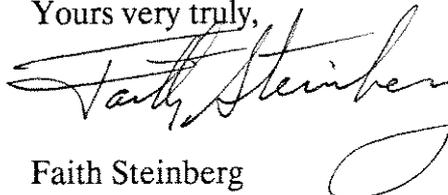
Although the billing statements at issue here reflect the fact that privileged

communications may have taken place, only one of the brief notations in the statements appears to reveal the content of those communications. We have marked that portion of the statements that you may withhold pursuant to section 3(a)(7).

To secure the protection of section 3(a)(3), a governmental body must demonstrate that the requested information relates to a pending or reasonably anticipated judicial or quasi-judicial proceeding. See Open Records Decision No. 588 (1991). You have not demonstrated to this office that the administrative proceedings to which you refer are still pending, whether any other legal proceedings regarding this matter are pending or reasonably anticipated, or how the information not protected by section 3(a)(7) "relates" to those proceedings. Absent such a showing to this office within 14 days of the date of this letter, we will have no basis for determining that the information not otherwise protected as provided above comes under the protection of section 3(a)(3).

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 OR91-349.

Yours very truly,



Faith Steinberg
Assistant Attorney General
Opinion Committee

FS/RWP/lb

Ref.: ID# 12663
ID# 12822

cc: Larry Shaw
UniServ Representative
Ft. Worth Classroom Teachers Ass'n.
6021 Westcreek Drive
Ft. Worth, Texas 76107

Enclosures: Open Records Decision Nos. 589, 574