



Office of the Attorney General

State of Texas

March 23, 1993

DAN MORALES
ATTORNEY GENERAL

Ms. Martha C. Wright
Wright & Associates, P.C.
P.O. Box 531777
Grand Prairie, Texas 75053-1777

OR93-090

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# 15872.

The Grand Prairie Independent School District received a request for two items:

1. The "[m]onthly payments to Wright and Associates from May 1, 1990 through April 1, 1992 . . . [which] should be by the month and state what the expenditure is for,"
2. The "[c]omplete audit of all expenditures from bond fund . . . [which] should show what contract the expenditure was charged to, payee, date, base amount and all changes to base amounts."

With regard to the first item, you expressed uncertainty about what documents the requestor is seeking. A governmental body may ask for clarification from the requestor if it cannot reasonably understand a particular request. Open Records Decision No. 304 (1982). In this case, we think it is reasonable to assume, as you suggest, that in making his first request, the requestor seeks to obtain the billing statements from the law firm of Wright and Associates.

You contend that the billing statements are excepted from required public disclosure by sections 3(a)(1), 3(a)(3), and 3(a)(7) of the Open Records Act. You also raise section 3(a)(14) as an exception to the disclosure of any student names that appear on the statements. You raise no exceptions to the release of item two, the "complete audit of all expenditures from bond fund;" thus, you must release the audit.

We begin with your claim under section 3(a)(3), the litigation exception. Section 3(a)(3) protects from public disclosure information that relates to litigation that is pending or reasonably anticipated. Open Records Decision No. 551 (1990). You say that the statements "indicate work done on pending or threatened litigation and on current

litigation." While this conclusory statement may be true, you have not demonstrated that litigation is pending or reasonably anticipated or how a particular item of information relates to specific litigation. We, therefore, conclude that you may not withhold the billing statements pursuant to section 3(a)(3) of the Open Records Act.

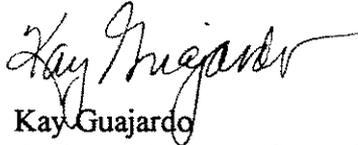
You say that the bills contain student names which are protected from disclosure by section 3(a)(14) of the Open Records Act and the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, "the Buckley Amendment." The Buckley Amendment generally prohibits an educational agency or institution from releasing student records without a parent's consent. An "educational agency or institution" includes public institutions which receive federal funds. 20 U.S.C. § 1232g(a)(3).

The Buckley Amendment applies to "education records," which are records that contain information directly related to a student and that are maintained by an educational agency or institution or by a person acting for such agency or institution. 20 U.S.C. § 1232g(a)(4)(A). In Open Records Decision No. 462 (1987) at page 15, this office determined that the notes maintained by a private law firm employed by the University of Houston regarding an investigation into the university's athletic program constituted education records maintained by a person acting on behalf of an educational agency for purposes of the Buckley amendment. As counsel for Grand Prairie Independent School District, Wright and Associates is "acting for" an educational agency. We believe that to the extent that the billing statements contain information related to a student, the billing statements constitute "education records" for purposes of the Buckley Amendment. You may therefore delete from the billing statements the names of any students or any information that may identify a student.

The attorney-client privilege may permit you to withhold portions of the billing statements pursuant to section 3(a)(7) of the Open Records Act. The protection of section 3(a)(7) is limited to information that reveals client confidences to an attorney or that reveals the attorney's legal advice. Open Records Decision Nos. 574 (1990); 589 (1991). Although you submitted the bills to this office, you did not mark the portions that reveal client confidences or attorney advice. Please do so and resubmit the bills (or representative samples) within 14 days from the date of this decision. We are enclosing copies of Open Records Decisions 574 and 589 to assist you 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 OR93-090.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/lmm/le

Ref.: ID# 15872

Enclosures: Open Records Decision Nos. 574 and 589
Submitted documents

cc: Mr. Gary Vance
1121 Clark Trail
Grand Prairie, Texas 75052
(w/o enclosures)