



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 6, 1996

Mr. Robert J. Young  
District Legal Counsel  
Dallas County Community College District  
R. L. Thornton, Jr. Building  
701 Elm Street, Room 400  
Dallas, Texas 75202-3299

OR96-2057

Dear Mr. Long:

You have asked this office to determine if certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101564.

The Dallas County Community College District (the "district") received a request for invoices and financial information pertaining to a pending lawsuit. You assert that the information requested is excepted from disclosure pursuant to section 552.103(a) of the Government Code.<sup>1</sup>

To show that section 552.103(a) is applicable, a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to the litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. A governmental entity must meet both prongs of this test for information to be excepted under section 552.103(a). We agree that you have shown the applicability of section 552.103(a) to the descriptive portions of the legal billing documents submitted to this office. We have

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<sup>1</sup>The requestor has asserted that the financial information at issue must be disclosed because the district did not timely request a decision from this office. Sections 552.301 and 552.302 provide that if a governmental body does not seek a decision from this office within ten days after receipt of a written request, the information requested is presumed to be public. The district received this request on July 31, 1996, and sought a decision from this office on Monday, August 12, 1996. As the tenth day after receipt of the request fell on August 10, 1996, a Saturday, the district's request for a decision was timely when made on the first workday following. See Gov't Code § 311.014(b) ("If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday").

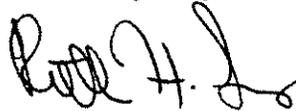
marked sample documents showing the types of information that may be withheld from disclosure under section 552.103(a).<sup>2</sup>

However, we do not agree that section 552.103(a) excepts from disclosure all of the information in the records submitted to this office. You assert that section 552.103(a) operates to except from disclosure the legal billing information in its entirety, including the hours and dates worked, information concerning who performed the work, billing amounts, invoice numbers, and payment information. This type of information does not appear to be related to the subject of the litigation, but it does concern the expenditure of public funds. In Open Records Decision No. 233 (1980) at 2, this office stated that the "long-standing policy of public access to a governmental body's financial records, combined with the Open Records Act's requirements that it be construed liberally in favor of access, compel a narrow reading of the exceptions." [Citations omitted].

You also assert that the correspondence relating to the legal bills consists of privileged communications between the district and its attorneys that is protected from disclosure under section 552.107(1). Section 552.107(1) excepts from disclosure communications that reveal client confidences or the attorney's legal advice or opinion. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11. The correspondence you submitted to this office concerns payments for legal services, but does not contain the kind of information that is protected under section 552.107(1). Except for the type of information that we have marked in sample documents, the information at issue must be disclosed.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

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<sup>2</sup>We note also that once information has been obtained by all parties to the litigation or the litigation concludes, no section 552.103(a) interest generally exists with respect to that information. Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 350 (1982), 349 (1982), 320 (1982). You have informed this office that the litigation is still pending and that the information has not been disclosed to the other party to the litigation.

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Enclosures: Marked documents

cc: Ms. Fayette Long  
(w/o enclosures)