



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 30, 1997

Mr. Bob Ramirez  
Escamilla & Poneck, Inc.  
1200 South Texas Building  
603 Navarro Street  
San Antonio, Texas 78205-1826

OR97-2418

Dear Mr. Ramirez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 109998.

The Harlandale Independent School District (the "school district") received a request for documents relating to Mr. Felix Rohler. You contend that the requested documents are excepted from disclosure under section 552.103 of the Government Code. You have submitted representative samples of the documents at issue to this office for review.<sup>1</sup>

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that 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. The school district must meet both prongs of this test for information to be excepted under 552.103(a).

Having reviewed your arguments on behalf of the school district, we find that you have met both prongs of the test under section 552.103(a). See Educ. Code §§ 21.251-.307. Generally,

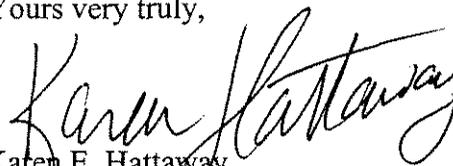
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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

however, once the opposing party in litigation has seen or had access to documents, no section 552.103(a) interest exists with respect to those documents. Open Records Decision Nos. 349 (1982), 320 (1982). We note that most of the submitted documents were sent to or received from the opposing party in litigation. Thus, the school district may not withhold those documents from disclosure. The school district may withhold any remaining documents from disclosure under section 552.103(a).<sup>2</sup>

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 109998

Enclosures: Submitted documents

cc: Ms. Barb Tauber  
Texas State Teachers Association  
1407 N. Main  
San Antonio, Texas 78212  
(w/o enclosures)

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<sup>2</sup>As for any remaining documents that the school district may withhold under section 552.103(a), we note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).