



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 24, 1998

Mr. Miles Bradshaw
Assistant General Counsel
Houston Independent School District
3830 Richmond Avenue
Houston, Texas 77027-5838

OR98-2856

Dear Mr. Bradshaw:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119432.¹

The Houston Independent School District (the "district") received requests for various information regarding legal bills for outside attorneys' services. You indicate with regard to portions of the request that the district either has no responsive information or has provided the requested information. You seek to withhold portions of the information responsive to parts of the request asking for copies of legal bills for the years "1995-96, 1996-97, and 1997-98," as well "legal bills in all litigation covered and paid for by the district's professional liability coverage through the Texas Association of School Boards, except for motor vehicle accidents," and "legal bills for workers' compensation subrogation." You submit representative samples of information responsive to the request.² You seek to

¹Please note that we are also treating under this ruling your request for a decision originally assigned number ID# 119390-98.

²In reaching our conclusion, 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 No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). 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.

withhold portions of the responsive information under sections 552.103(a) and 552.107(1) of the Government Code.³

Section 552.103(a) excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 at 1 (1991). To demonstrate that litigation is reasonably anticipated, the governmental body must furnish *concrete* evidence that litigation involving a specific matter is realistically contemplated and is more than mere conjecture. *Id.* Section 552.103(a) does not apply where there is no showing of a direct relationship between the information sought and pending or contemplated litigation. Open Records Decision No. 222 (1979).

In our opinion, you have not sufficiently demonstrated the relation of specific pending or anticipated litigation to the information you seek to withhold. Thus you may not withhold any of the information at issue under section 552.103(a).

Section 552.107(1) protects information "that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct." *See* Open Records Decision No. 574 (1990). 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.* *See also* Open Records Decision No. 589 (1991) (protected information in attorney billing statements.)

With respect to much of the information at issue, you have not, in our opinion, sufficiently demonstrated that its release would reveal the substance of privileged

³You also cite section 552.101, which excepts from disclosure information made confidential by statutory and constitutional law and by judicial decision. We understand you to refer to section 552.101 only in conjunction with your claims under sections 552.103(a) and 552.107(1), and we therefore do not separately address the applicability of section 552.101.

communications. We have marked those portions which we have determined you may withhold under section 552.107(1). The remaining information must be released in its entirety.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref.: ID# 119432; ID# 119390

Enclosures: Marked documents

cc: Ms Rosemary Covalt
10622 Riverview Dr.
Houston, Texas 77042.
(w/o enclosures)