



May 15, 2000

Mr. Robert E. Luna
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2000-1891

Dear Mr. Luna:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135201.

The Prosper Independent School District (the “district”), which you represent, received a written request for all records pertaining to a named district employee. You state that the district has released most of the requested information. You seek to withhold, however, two documents, and a portion of a third document, pursuant to, *inter alia*, section 552.107(1) of the Government Code.¹

You contend that the following information is excepted from public disclosure pursuant to the attorney-client privilege as incorporated into section 552.107(1) of the Government Code: 1) one page of handwritten notes prepared by the district’s superintendent memorializing his conversation with one of the district’s attorneys, 2) a legal opinion from the school’s attorneys to the superintendent, and 3) one paragraph from a memorandum prepared by a school counselor. In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney’s legal advice and client confidences. *See* Open Records Decision No. 574 (1990). After reviewing the information at issue, we agree that the district may withhold all of the information at issue pursuant to section 552.107(1).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

¹Because we resolve your request under section 552.107(1), we need not address the applicability of the other exception you raised. We also note that, in accordance with the practice established by this office in Open Records Decision No. 634 (1995), you have redacted from the third document the identity of a student to protect her privacy interests under the federal Family Educational Rights and Privacy Act of 1974 (“FERPA”), 20 U.S.C. § 1232g.

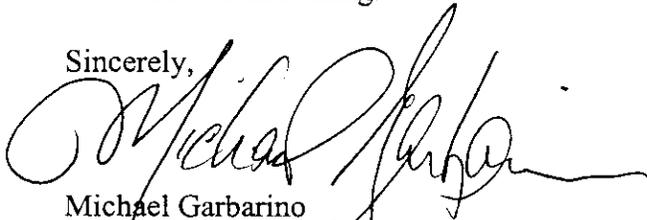
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/RWP/ljp

Ref: ID# 135201

Encl. Submitted documents

cc: Mr. E. Matthew Guedea
ATPE
305 E. Huntland Drive, Suite 300
Austin, Texas 78752
(w/o enclosures)