



August 25, 2000

Ms. Minerva Salazar
Superintendent of Schools
West Oso Independent School District
5050 Rockford Drive
Corpus Christi, Texas 78416

OR2000-3263

Dear Ms. Salazar:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 140044.

West Oso Independent School District (the "district") received a request for "the complaint against Denise Hutchinson and the reasons she's been suspended with pay" and "documents concerning the allegations made by Hutchinson regarding racial discrimination." You state that the district does not have the complaint against Ms. Hutchinson. You assert that the remaining requested information is excepted from disclosure based on section 552.103 of the Government Code.

The district received the request for information on June 19, 2000. You state that you made the determination to withhold the information under section 552.103 of the Government Code, which excepts from public disclosure information relating to litigation of a civil nature to which a political subdivision of the state is a party. Your determination to do so is contrary to the mandate of section 552.301 of the Government Code. Section 552.301 provides that a governmental body that wishes to withhold requested information under an exception of the Act must ask for a decision from the attorney general if there has not been a previous determination about whether the information falls within one of the exceptions. Furthermore, the Act imposes a duty on a governmental body seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797

S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). This office received your request for a decision on August 3, 2000, more than ten business days after the district's receipt of the request for information.

When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). Your section 552.103 claim is not a compelling reason to overcome the presumption of openness. Open Records Decision No. 473 (1987). Thus, you must release the requested information.

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.

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).

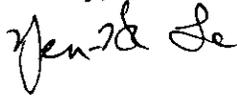
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Dep't 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,

A handwritten signature in black ink, appearing to read "Yen-Ha Le". The signature is fluid and cursive, with the first name "Yen" and last name "Le" clearly distinguishable.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ljp

Ref: ID# 140044

Encl. Submitted documents

cc: Mr. James Doughty
5002 S. Padre Island Drive
Corpus Christi, Texas 78411
(w/o enclosures)