



December 1, 2000

Mr. William M. Buechler  
Buechler & Associates  
814 San Jacinto Boulevard, Suite 408  
Austin, Texas 78701-2404

OR2000-4561

Dear Mr. Buechler:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 141746.

The Austin Independent School District ("AISD"), which you represent, received a request for the following items: (1) a copy of a letter concerning the settlement of a special education case and any replies to the letter; (2) the total amount paid by AISD for legal services rendered by a law firm in the case;<sup>1</sup> (3) a copy of a letter demanding compliance and payment and any replies to the letter; (4) the estimated cost for providing certain special education services; and (5) the total amount paid by AISD to its attorneys for services provided in special education cases. You state that you will release the information responsive to the first, third, and fifth requests. However, you also state that no information exists that is responsive to the fourth request. Because the Public Information Act requires a governmental body neither to make available information that does not exist nor to prepare new information you need not respond to the fourth request. *Economic Opportunities Development Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 362 at 2 (1983). You have submitted attorney fee bills in response to the remaining request for the total amount paid by AISD for a law firm's legal services in a particular special education case, claiming that the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>Initially, the requestor sought "all invoices received from and all amounts paid to" the law firm for their work in the special education case. However, that request was withdrawn, and the requestor now seeks the "total amount" AISD paid the law firm.

Initially we note that a bill for attorney's fees is subject to disclosure under section 552.022 of the Public Information Act. Section 552.022 provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

....

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege....

Gov't Code § 552.022(a)(16). For the purposes of section 552.022(a), section 552.103 of the Government Code is not other law that makes information expressly confidential. *See* Open Records Decision No. 665 at 2 n.5 (2000) (explaining that section 552.103 is not a confidentiality provision). Thus, with the exception of any information that is subject to the attorney-client privilege under section 552.107, the contents of the submitted bills for attorney's fees are subject to required public disclosure under section 552.022(a)(16) and must be released.

Section 552.107 of the Government Code provides in relevant part that information is excepted from required public disclosure if

it is 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....

Gov't Code § 552.107(1). In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. Section 552.107(1) does not protect purely factual information. *Id.* The attorney general explicitly found that a governmental body may withhold information in an attorney fee bill only to the extent that the information reveals client confidences or the attorney's legal advice. *See* Open Records Decision No. 589 (1991). Moreover, in Open Records Decision No. 589, the attorney general determined that the "attorney-client privilege" exception did not protect a requested list of "phone calls and conferences regarding a particular matter" or indications that an attorney had reviewed documents relevant to the attorney's representation of the government body.

We have reviewed the submitted legal bills and find that they contain no information that is privileged under section 552.107(1). Therefore, AISD must release the submitted legal bills to the requestor.

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).

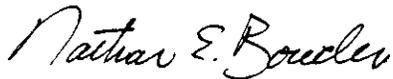
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following 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 Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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,



Nathan E. Bowden  
Assistant Attorney General  
Open Records Division

NEB/er

Ref: ID# 141746

Encl: Submitted documents

cc: Mr. William C. Bednar, Jr.  
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(w/o enclosures)