



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 29, 2010

Ms. Angela H. Robinson  
Law, Snakard & Gambill, P.C.  
1600 West Seventh Street, Suite 500  
Fort Worth, Texas 76102

OR2010-01444

Dear Ms. Robinson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 368679.

The Tarrant County College District (the "district") received a request for five categories of information related to a named former Vice Chancellor. You state you have released some of the requested information. Furthermore, you state release of the remaining requested information may implicate the interests of the former Vice Chancellor. We have received comments from the representative of the former Vice Chancellor and the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, the former Vice Chancellor raises section 552.103 of the Government Code. Because section 552.103 protects the litigation interests of governmental bodies, not private parties, the former Vice Chancellor lacks standing to raise this exception. *See* Open Records Decision Nos. 575 at 2 (1990), 551 at 3 (1990) (section 552.103 enables governmental entities to protect their position in litigation), 542 at 4 (1990) (litigation exception does not implicate third-party rights and may be waived by governmental body). Accordingly, the district may not withhold any of the submitted information under section 552.103.

Next, the former Vice Chancellor raises section 552.107 of the Government Code for the submitted information. Section 552.107(1) protects information if:

- (1) 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 Evidence or the Texas Disciplinary Rules of Professional Conduct[.]

Gov't Code § 552.107(1). We note that the attorney-client privilege, as incorporated into section 552.107(1), belongs to and serves the interests of the governmental body as client. *See* Open Records Decision No. 630 (1994); *see also* Open Records Decision No. 676 at 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived). Therefore, because the district has not raised section 552.107, the submitted information may not be withheld under this exception.

The former Vice Chancellor also raises section 552.111 of the Government Code for portions of the remaining information.<sup>1</sup> Section 552.111 excepts from disclosure "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." Gov't Code § 552.111. Section 552.111 is a discretionary exception to public disclosure that protects a governmental body's interests, and not those of a third party, and may be waived. *See id.* § 552.007; Open Records Decision Nos. 677 at 10 (2002) (attorney work product privilege under Gov't Code § 552.111 may be waived). Therefore, because the district has not raised section 552.111, the submitted information may not be withheld under this exception. As no further exceptions to disclosure have been raised, the submitted information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>Although the former Vice Chancellor raises Texas Rule of Civil Procedure 192.5, we note that, in this instance, the proper exception to raise when asserting the attorney work product privilege is section 552.111. *See* Open Records Decision No. 677 (2002).

Ref: ID# 368679

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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