



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2012

Mr. Christopher B. Gilbert
For Katy Independent School District
Thompson & Horton, L.L.P.
Phoenix Tower, Suite 2000
3200 Southwest Freeway
Houston, Texas 77027

OR2012-06227

Dear Mr. Gilbert:

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# 451965 (PIR# 11315-40).

The Katy Independent School District (the "district"), which you represent, received a request for e-mails, text messages, and written information sent between certain named individuals during a specified period. You state the district has released some of the information. You further state the district has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.111, 552.117, and 552.131 of the Government Code, and privileged under rule 503 of the Texas Rules of Evidence.¹ We have considered your arguments and reviewed the submitted representative sample of information.²

Initially, we must address the district's procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from

¹Although you raise section 552.101 of the Government Code in conjunction with the attorney-client privilege, this office has concluded that section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002). In this instance, the proper exception to raise when asserting the attorney-client privilege is rule 503 of the Texas Rules of Evidence for information subject to section 552.022 of the Government Code, and section 552.107 for information not subject to section 552.022. *See id.*

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

public disclosure. Pursuant to section 552.301(b) of the Government Code, a governmental body must ask for the attorney general's decision and state the applicable exceptions within ten business days after receiving the request. *See* Gov't Code § 552.301(b). As you acknowledge, the district's ten-business-day deadline for requesting a ruling and stating the applicable exceptions was March 2, 2012.³ However, the district did not raise sections 552.117 and 552.131 of the Government Code until its brief on March 9, 2012. Thus, we find the district failed to meet its procedural obligation in raising these exceptions.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is made confidential. Open Records Decision No. 150 (1977). Although you raise section 552.131, we note this is a discretionary exception that protects a governmental body's interests and may be waived. As such, it does not make information confidential for purposes of section 552.302. Accordingly, the district may not withhold any of the submitted information based on its assertion of section 552.131(b) of the Government Code. Section 552.117 does make information confidential under the Act, and we will consider the district's assertion of that exception.

Next, we note Exhibit C contains an attorney fee bill and Exhibit I contains a document that has been filed with a court. Section 552.022 provides for the disclosure of "information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege" and "information that is also contained in a public court record." Gov't Code § 552.022(a)(16), (17). Although you claim sections 552.103 and 552.107 for this information, we note these are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475–76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103), Open Records Decision Nos. 676 at 10–11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally). Accordingly, the district may not withhold the attorney fee bill or the court document at issue under either section 552.103 or section 552.107 of the

³We note the district sought clarification of the request and received a response from the requestor. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Government Code. However, the Texas Supreme Court has held the Texas Rules of Evidence are “other law” within the meaning of section 552.022. *See In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Accordingly, we will consider your assertion of the attorney-client privilege under rule 503 for the attorney fee bill at issue. We also note some of the information in the attorney fee bill is subject to section 552.136 of the Government Code, which does make information confidential under the Act.⁴ Accordingly, we will consider the applicability of section 552.136 of the Government Code for this information.

Texas Rule of Evidence 503 enacts the attorney-client privilege, providing in part:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

(A) between the client or a representative of the client and the client’s lawyer or a representative of the lawyer;

(B) between the lawyer and the lawyer’s representative;

(C) by the client or a representative of the client, or the client’s lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;

(D) between representatives of the client or between the client and a representative of the client; or

(E) among lawyers and their representatives representing the same client.

TEX. R. EVID. 503(b)(1). A communication is “confidential” if not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *Id.* 503(a)(5).

Thus, in order to withhold information from disclosure under rule 503, a governmental body must: (1) show that the document is a communication transmitted between privileged parties or reveals a confidential communication; (2) identify the parties involved in the communication; and (3) show that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the

⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

rendition of professional legal services to the client. Upon a demonstration of all three factors, the information is privileged and confidential under rule 503, provided the client has not waived the privilege or the document does not fall within the purview of the exceptions to the privilege enumerated in rule 503(d). *See Pittsburgh Corning Corp. v. Caldwell*, 861 S.W.2d 423, 427 (Tex. App.—Houston [14th Dist.] 1993, orig. proceeding).

You claim the attorney fee bill is privileged in its entirety under the attorney-client privilege. However, section 552.022(a)(16) of the Government Code provides information “that is in a bill for attorney’s fees” is not excepted from required disclosure unless it is confidential under the Act or “other law,” or privileged under the attorney-client privilege. *See Gov’t Code § 552.022(a)(16)* (emphasis added). This provision, by its express language, does not permit the entirety of an attorney fee bill to be withheld. *See Open Record Decision Nos. 676* (attorney fee bill cannot be withheld in entirety on basis it contains or is attorney-client communication pursuant to language in section 552.022(a)(16)), 589 (1991) (information in attorney fee bill excepted only to extent information reveals client confidences or attorney’s legal advice).

You state the information at issue consists of communications between the district’s attorneys and district staff and officials in their capacity as clients. You state the communications were made in order to facilitate the rendition of legal services to the district. You further indicate the communications at issue were intended to be, and have remained, confidential. Based on these representations and our review, we find the information we have marked within the attorney fee bills constitutes attorney-client communications under rule 503. Accordingly, the district may withhold the information we marked pursuant to rule 503 of the Texas Rules of Evidence. However, some of the remaining information at issue was shared with non-privileged parties or does not document a privileged communication. Thus, we find you have failed to demonstrate the attorney-client privilege for any of the remaining information contained in the attorney fee bill. Accordingly, the district may not withhold any of the remaining information at issue on that basis.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Gov’t Code § 552.136(b)*. An access device number is one that may be used to “(1) obtain money, goods, services, or another thing of value; or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Accordingly, the district must withhold the information we have marked under section 552.136 of the Government Code.

Next, we address your claim under section 552.107 of the Government Code. Section 552.107(1) of the Government Code protects information coming within the attorney-client privilege. The elements of the privilege under section 552.107 are the same as those discussed for rule 503. Section 552.107(1) generally excepts an entire communication that is demonstrated to be protected by the attorney-client privilege, unless otherwise waived by the governmental body. *See Huie v. DeShazo*, 922 S.W.2d 920, 923

(Tex. 1996) (privilege extends to entire communication, including facts contained therein). You state the information in Exhibits B, C, D, E, F, G, and H consists of e-mail communications between the district's attorneys and the district's staff and officials. You state the communications were made in order to facilitate the rendition of legal services to the district. You further indicate the communications at issue were intended to be, and have remained, confidential. Based on these representations and our review, we find the district has demonstrated the attorney-client privilege for the information at issue. Thus, the district may withhold this information under section 552.107(1) of the Government Code. We note, however, some of these e-mail strings include communications with non-privileged parties or attachments that were sent to or received from non-privileged parties. If these non-privileged communications and attachments, which we have marked, exist separate and apart from the otherwise privileged e-mail strings in which they appear, then the district may not withhold these non-privileged communications and attachments under section 552.107(1) of the Government Code.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. We understand you to raise section 552.101 of the Government Code in conjunction with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. §§ 1320d-1320d-9. At the direction of Congress, the Secretary of Health and Human Services ("HHS") promulgated regulations setting privacy standards for medical records, which HHS issued as the Federal Standards for Privacy of Individually Identifiable Health Information. *See* Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d-2 (Supp. IV 1998) (historical & statutory note); Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. pts. 160, 164 ("Privacy Rule"); *see also* Attorney General Opinion JC-0508 at 2 (2002). These standards govern the releasability of protected health information by a covered entity. *See* 45 C.F.R. pts. 160, 164. Under these standards, a covered entity may not use or disclose protected health information, except as provided by parts 160 and 164 of the Code of Federal Regulations. 45 C.F.R. § 164.502(a).

This office addressed the interplay of the Privacy Rule and the Act in Open Records Decision No. 681 (2004). In that decision, we noted section 164.512 of title 45 of the Code of Federal Regulations provides that a covered entity may use or disclose protected health information to the extent such use or disclosure is required by law and the use or disclosure complies with, and is limited to, the relevant requirements of such law. *See* 45 C.F.R. § 164.512(a)(1). We further noted the Act "is a mandate in Texas law that compels Texas governmental bodies to disclose information to the public." *See* ORD 681 at 8; *see also* Gov't Code §§ 552.002, .003, .021. We, therefore, held the disclosures under the Act come within section 164.512(a). Consequently, the Privacy Rule does not make information confidential for the purpose of section 552.101 of the Government Code. *See Abbott v. Tex. Dep't of Mental Health & Mental Retardation*, 212 S.W.3d 648 (Tex. App.—Austin 2006, no pet.); ORD 681 at 9; *see also* Open Records Decision No. 478 (1987) (as general rule, statutory confidentiality requires express language making information confidential). Because the Privacy Rule does not make information that is subject to disclosure under the Act

confidential, the district may not withhold any portion of the submitted information under section 552.101 of the Government Code on this basis.

Section 552.101 of the Government Code also encompasses section 181.006 of the Health and Safety Code. Section 181.006 provides

For a covered entity that is a governmental unit, an individual's protected health information:

(1) includes any information that reflects that an individual received health care from the covered entity; and

(2) is not public information and is not subject to disclosure under [the Act].

Health & Safety Code § 181.006. Section 181.001(b)(2) defines "[c]overed entity," in part, as:

[A]ny person who:

(A) for commercial, financial, or professional gain, monetary fees, or dues, or on a cooperative, nonprofit, or pro bono basis, engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing, or transmitting protected health information. The term includes a business associate, health care payer, governmental unit, information or computer management entity, school, health researcher, health care facility, clinic, health care provider, or person who maintains an Internet site[.]

Id. § 181.001(b)(2). Upon review, we find you have not demonstrated how the district is a covered entity for purposes of section 181.006 of the Health and Safety Code. Thus, we find you have failed to demonstrate any of the submitted information is subject to section 181.006. Accordingly, no portion of the submitted information may be withheld under section 552.101 of the Government Code on that basis.

Section 552.103 provides:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature 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.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a).

This office has held for purposes of section 552.103, “litigation” includes “contested cases” conducted in a quasi-judicial forum. *See* Open Records Decision Nos. 474 (1987), 368 (1983), 336 (1982), 301 (1982). In determining whether an administrative proceeding is conducted in a quasi-judicial forum, some of the factors this office considers are whether the administrative proceeding provides for discovery, evidence to be heard, factual questions to be resolved, the making of a record, and whether the proceeding is an adjudicative forum of first jurisdiction with appellate review of the resulting decision without a re-adjudication of fact questions. *See* Open Records Decision No. 588 (1991). We note contested cases conducted under the Administrative Procedure Act, chapter 2001 of the Government Code (the “APA”), are considered litigation under section 552.103.

The question of whether litigation is reasonably anticipated must be determined on a case-by-case basis. *See* Open Records Decision No. 452 at 4 (1986). 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.* This office has concluded that litigation was reasonably anticipated when the potential opposing party took the following objective steps toward litigation: filed a complaint with the Equal Employment Opportunity Commission (“EEOC”), *see* ORD 336; hired an attorney who made a demand for disputed payments and threatened to sue if the payments were not made promptly, *see* Open Records Decision No. 346 (1982); and threatened to sue on several occasions and hired an attorney, *see* Open Records Decision No. 288 (1981).

You state the following with regard to the information submitted as Exhibit I: (1) a portion relates to a pending EEOC complaint in which the district is a party; (2) a portion consists of a demand letter in which an attorney for an injured student threatens litigation; (3) a portion relates to a lawsuit that is pending in the 240th District Court of Fort Bend County; (4) a portion relates to a complaint made by a parent to the United States Department of Education Office for Civil Rights (“OCR”), and the OCR investigation is ongoing; (5) a

portion relates to a special education due process hearing involving the Texas Education Agency; (6) a portion relates to a complaint filed pursuant to district policy regarding an alleged relationship between a student and a teacher; and (7) a portion relates to a grievance filed pursuant to district policy regarding a Teacher In Need of Assistance growth plan. Upon review of the information you have submitted, we find the hearing, complaint, and grievance constitute litigation for purposes of section 552.103. Thus, based on your representations and our review of the information, we agree the district reasonably anticipated litigation or was involved in pending litigation with respect to this information on the date the district received the request. We also find the information at issue is related to the anticipated or pending litigation. Accordingly, we conclude section 552.103 generally applies to the information submitted as Exhibit I.

We note, however, some of the information, which we have marked, was sent to or received from an opposing party in the anticipated or pending litigation. Once information has been obtained by all parties to the anticipated litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to the information. *See* Open Records Decision Nos. 349 (1982), 320 (1982). Thus, any information provided to all other parties in anticipated or pending litigation is not excepted from disclosure under section 552.103(a) and must be disclosed. Further, the applicability of section 552.103(a) ends once the litigation has concluded or is no longer reasonably anticipated. *See* Attorney General Opinion MW-575 (1982); *see also* Open Records Decision No. 350 (1982). Accordingly, with the exception of the information provided to or received from the opposing parties, which we have marked, and the information you state the district has released, the district may withhold the information submitted as Exhibit I under section 552.103 of the Government Code. Although you raise section 552.103 for portions of the remaining information, you do not explain how this information relates to pending or anticipated litigation. Accordingly, the district may not withhold any of the remaining information under section 552.103 of the Government Code.

Section 552.111 of the Government Code excepts from disclosure “an interagency 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 encompasses the attorney work-product privilege found in rule 192.5 of the Texas Rules of Civil Procedure. *City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 360 (Tex. 2000); Open Records Decision No. 677 at 4–8 (2002). Rule 192.5 defines work product as:

- (1) material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party’s representatives, including the party’s attorneys, consultants, sureties, indemnitors, insurers, employees, or agents; or
- (2) a communication made in anticipation of litigation or for trial between a party and the party’s representatives or among a party’s representatives, including the party’s attorneys, consultants, sureties, indemnitors, insurers, employees or agents.

TEX. R. CIV. P. 192.5. A governmental body seeking to withhold information under this exception bears the burden of demonstrating that the information was created or developed for trial or in anticipation of litigation by or for a party or a party's representative. *Id.*; ORD 677 at 6–8. In order for this office to conclude the information was made or developed in anticipation of litigation, we must be satisfied that

- a) a reasonable person would have concluded from the totality of the circumstances surrounding the investigation that there was a substantial chance that litigation would ensue; and b) the party resisting discovery believed in good faith that there was a substantial chance that litigation would ensue and [created or obtained the information] for the purpose of preparing for such litigation.

Nat'l Tank Co. v. Brotherton, 851 S.W.2d 193, 207 (Tex. 1993). A “substantial chance” of litigation does not mean a statistical probability, but rather “that litigation is more than merely an abstract possibility or unwarranted fear.” *Id.* at 204; ORD 677 at 7. Upon review of your arguments, we find you have not demonstrated the attorney work-product privilege. Accordingly, the district may not withhold any of the submitted information under section 552.111 of the Government Code.

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681–82. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find the information we have marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the district must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. None of the remaining information is highly intimate or embarrassing. Accordingly, the district may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also encompasses the doctrine of constitutional privacy, which consists of two inter-related types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual's interest in avoiding disclosure of personal matters. *See Whalen v. Roe*, 429 U.S. 589, 599–600 (1977); Open Records Decision Nos. 600 at 3–5, 478 at 4, 455 at 3–7. The first type protects an individual's autonomy within “zones of privacy,” which include matters related to marriage, procreation,

contraception, family relationships, and child rearing and education. ORD 455 at 4. The second type of constitutional privacy requires a balancing between the individual's privacy interests and the public's need to know information of public concern. *Id.* at 7. The scope of information protected by constitutional privacy is narrower than that under the common-law doctrine of privacy; constitutional privacy under section 552.101 is reserved for "the most intimate aspects of human affairs." *Id.* at 5 (quoting *Ramie v. City of Hedwig Village, Tex.*, 765 F.2d 490 (5th Cir. 1985)). Upon review, we find you have not demonstrated how any of the remaining information falls within a protected zone of privacy. Accordingly, we conclude you have not demonstrated any of the remaining information is protected by constitutional privacy, and the district may not withhold it under section 552.101 of the Government Code on that basis.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the district must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117 of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530* at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. We have marked the information subject to section 552.117. To the extent the employee at issue made a timely request for confidentiality, the district must withhold this information under section 552.117(a)(1) of the Government Code.

Section 552.137 of the Government Code provides, "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c). Gov't Code § 552.137(a)–(c). Upon review, the district must withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the e-mail address has affirmatively consented to its release.

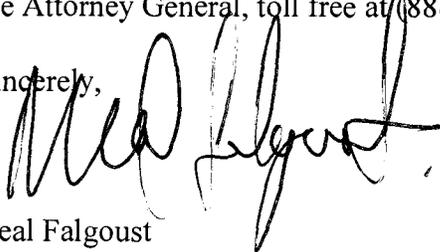
In summary, the district must release the attorney fee bill we have marked in Exhibit C and the court document we have marked in Exhibit I pursuant to section 552.022 of the

Government Code. In releasing the attorney fee bill, the district may withhold the attorney-client privileged information we have marked under rule 503 of the Texas Rules of Evidence and the information we have marked under section 552.136 of the Government Code. The district may withhold Exhibits B, C, D, E, F, G, and H under section 552.107(1) of the Government Code. However, if any of the communications and attachments we have marked exist separate and apart from the otherwise privileged communications, the district may not withhold this information under section 552.107(1) of the Government Code. With the exception of the information sent to or received from opposing parties, which we have marked, and the information the district has released, the district may withhold Exhibit I under section 552.103 of the Government Code. The district must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold: (1) the date of birth we have marked under section 552.102 of the Government Code; (2) the personal information we have marked under section 552.117(a)(1) of the Government Code, if the employee made a timely request for confidentiality; and (3) the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the address affirmatively consented to its release. The remaining 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, 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 451965

Enc. Submitted documents

c: Requestor
(w/o enclosures)