



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 5, 2016

Ms. Amber K. King  
General Counsel  
Lake Travis Independent School District  
3322 Ranch Road 620 South  
Austin, Texas 78738

OR2016-22370

Dear Ms. King:

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# 629534 (Request# 071416-124D/DL 5477).

The Lake Travis Independent School District (the "district") received a request for all billing statements, invoices, and receipts for all legal expenses received or paid during a specified month. You state the district has redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You claim the submitted information is privileged under Texas Rule of Evidence 503.<sup>2</sup> We have considered your arguments and reviewed the submitted information.

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<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

<sup>2</sup>Although you initially raised sections 552.101 and 552.107 of the Government Code and Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct, you make no arguments to support the applicability of sections 552.101 and 552.107 or Rule 1.05. Therefore, we assume you have withdrawn your claim sections 552.101 and 552.107 and Rule 1.05 apply to the submitted information. See Gov't Code §§ 552.301, .302.

We note, and you acknowledge, the submitted information consists of attorney fee bills that are subject to section 552.022(a)(16) of the Government Code. Section 552.022(a)(16) provides for required public disclosure of “information that is in a bill for attorney’s fees and that is not privileged under the attorney-client privilege[,]” unless the information is confidential under the Act or other law. Gov’t Code § 552.022(a)(16). We note the Texas Supreme Court has held the Texas Rules of Evidence are “other law” that make information expressly confidential for purposes of section 552.022. *In re City of Georgetown*, 53 S.W.3d 328, 336 (Tex. 2001). Thus, we will consider the district’s assertion of the attorney-client privilege under Texas Rule of Evidence 503.

Texas Rule of Evidence 503 enacts the attorney-client privilege. Rule 503(b)(1) provides as follows:

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

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

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

(C) by the client, the client’s representative, the client’s lawyer, or the lawyer’s representative to a lawyer representing another party in a pending action or that lawyer’s representative, if the communications concern a matter of common interest in the pending action;

(D) between the client’s representatives or between the client and the client’s representative; or

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

TEX. R. EVID. 503(b)(1). A communication is “confidential” if it is 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).

When asserting the attorney-client privilege, a governmental body has the burden of providing the necessary facts to demonstrate the elements of the privilege in order to withhold the information at issue. *See* ORD 676 at 6-7. Thus, in order to withhold attorney-client privileged information from disclosure under rule 503, a governmental body must: (1) show 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 the communication is confidential by explaining it was not intended to be disclosed to third persons and it was made in furtherance of the 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 assert the submitted fee bills include privileged attorney-client communications between or among the district's attorneys and district employees and officials. You state the communications at issue were made for the purpose of the rendition of legal services to the district and were not intended to be disclosed to third parties. Based on your representations and our review of the information at issue, we find you have established some of the information you have marked constitutes attorney-client communications under rule 503. Thus, the district may withhold the information we have marked within the submitted attorney fee bills pursuant to rule 503 of the Texas Rules of Evidence. However, we find you have not demonstrated the remaining information at issue documents an attorney-client communication for purposes of rule 503. Accordingly, the remaining information may not be withheld on that basis. As no other exceptions to disclosure have been raised, the district must release the remaining information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/dls

Ref: ID# 629534

Enc. Submitted documents

c: Requestor  
(w/o enclosures)