



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 11, 1993

Ms. Carmen E. Rodriguez  
Rodriguez, Lewis & Collins P.C.  
800 Wyoming, Suite A  
El Paso, Texas 79902

OR93-304

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19533.

The Ysleta Independent School District received an open records request for records that you contend may be withheld from the public pursuant to sections 3(a)(3), 3(a)(7), 3(a)(14) and 14(e) of the Open Records Act. Specifically the request is for "all records relating to [Ms. Dickason's] termination as recommended by Dr. Mauro L. Reyna."

To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). We have determined in prior rulings of this office that a pending complaint before the Equal Employment Opportunity Commission ("EEOC") indicates a substantial likelihood of potential litigation. Open Records Decision No. 386 (1983), 336 (1982). It is clear from the records you submitted for our review that Ms. Dickason has filed a complaint with the EEOC and the requested records relate to the complaint. You have made the requisite showing that the requested information relates to pending litigation for purposes of section 3(a)(3), you may therefore withhold the requested documents.<sup>1</sup>

We note, however, that once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the

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<sup>1</sup>In view of our determination that the records are excepted from disclosure by section 3(a)(3), we need not address the applicability of sections 3(a)(7), 3(a)(14) and 14(e).

opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). Therefore, any records that the requestor has had prior access to during her grievance process with the school district may not be withheld pursuant to section 3(a)(3). We also note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Opinion Committee

LRD/RWP/le

Ref.: ID# 19533

Enclosures: Submitted documents

cc: Mr. Antonio V. Silva  
Attorney at Law  
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(w/o enclosures)