



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 26, 1995

Ms. Lisa A. Brown
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR95-493

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32770.

The Houston Independent School District (the "district") received a request for copies of various documents produced between 1960-1995 relating to policies, rules, regulations, and incidents relating to sexual abuse, harassment, assault and indecency between district personnel/teachers and students. You have submitted a representative sample of documents responsive to the request.¹ You assert, however, that the records are excepted from required disclosure pursuant to section 552.103 of the Government Code, because they relate to civil litigation pending against the district.

Section 552.103(a) excepts information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, 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; and

¹In reaching our conclusion here, we assume that 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) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), 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). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a).² We have reviewed the submitted documents and agree that the documents relate to the pending sexual harassment suit. You have, therefore, shown that section 552.103(a) is applicable to the requested information.³

Generally, once information has been obtained by all of the parties to litigation, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision No. 349 (1982) at 2. The applicability of section 552.103 also generally ends once litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. We note, however, that some of the information submitted to this office appears to be confidential pursuant to section 552.101 of the Government Code and other law. You may not disclose confidential information even after litigation has concluded. *See* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LMM/rho

²Because the information at issue may be withheld under section 552.103(a), we do not address your other arguments against disclosure.

³The Seventy-fourth Legislature has significantly amended the Open Records Act effective September 1, 1995. *See* Act of May 29, 1995, H.B. 1718, 74th Leg., R.S. (to be codified at Gov't Code Ch. 552) (copy available from House Document Distribution). We do not address in this ruling whether these recent amendments to the Open Records Act will affect requests for this information that are made on or after September 1, 1995.

Ref.: ID# 32770

Enclosures: Marked documents

cc: Mr. Gary M. Polland
Polland & Cook, L.L.P.
1600 Summit Tower
11 Greenway Plaza
Houston, Texas 77046
(w/o enclosures)