



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 29, 1995

Mr. David A. Anderson
Chief Legal Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR95-913

Dear Mr. Anderson:

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# 34145.

The Texas Education Agency ("TEA") received two requests for information concerning Somerset Independent School District.¹ You contend that the information is excepted from required public disclosure under sections 552.101, 552.103 and 552.111 of the Government Code.

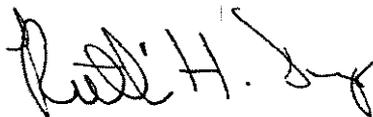
Section 552.103(a) excepts information relating to litigation that is pending or reasonably anticipated. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. Once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the 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 requestors pursuant to section 552.103(a).

¹We note that one of the requestors is a school board member for the district. This ruling addresses only the public's right of access, not access by a member of a governmental body to information in that governmental body's possession. See Attorney General Opinion JM-119 (1983).

In this instance, TEA has demonstrated that the requested information relates to pending litigation. Accordingly, you may withhold the requested information under section 552.103 of the Government Code.² As we resolve your request under section 552.103, we need not address the applicability of sections 552.101 and 552.111.

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/LBC/ch

Ref: ID# 34145

Enclosures: Submitted documents

cc: Ms. Linda Bachmeier
5544 Smith Road
Von Ormy, Texas 78073
(w/o enclosures)

Mr. Leo Salas
20712 State Hwy 16 S #1
Von Ormy, Texas 78073
(w/o enclosures)

²The section 552.103(a) exception is discretionary with the governmental entity asserting the exception, it is within the TEA's discretion to release this information to the requestors. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.