



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 17, 1998

Ms. Amy Flinn  
Bickerstaff, Heath, Smiley, Pollan,  
Kever & McDaniel, L.L.P.  
1700 Frost Bank Plaza  
816 Congress Avenue  
Austin, Texas 78701-2443

OR98-2217

Dear Ms. Flinn:

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# 118068.

The Austin Independent School District ("AISD"), which you represent, received a request for the following information:

- 1) How many teachers have left Crockett High School, Bowie High School, Austin and Travis High Schools in the last 19 months? That would be around second semester 1997. Regardless of the reasons, just the numbers will suffice.
- 2) How many teachers have requested transfers from these schools within this same time frame?
- 3) How many teachers are actually married to other teachers on the same campus at the schools? (nepotism)

You contend that AISD is not required to respond to this request because the requested information "does not exist in a fixed, readable form, and compliance with [the] request would require AISD to do research and compile the requested information in order to create a new document." In the alternative, you contend that the requested information is excepted from disclosure under section 552.103 of the Government Code.

When a governmental body is presented with a broad request for information rather than for specific records, it should advise the requestor of the types of information available so that she may narrow or clarify her request. Open Records Decision Nos. 563 (1990), 561 (1990). Although the Open Records Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in response to a request, a governmental body must make a good faith effort to relate a request to information which it holds. Open Records Decision Nos. 563 (1990), 561 (1990), 555 (1990), 534 (1989). In other words, if AISD is able to identify documents in its possession from which the requestor could ascertain the information she is seeking, such documents would be considered responsive to the request and would have to be made available to the requestor unless excepted from disclosure.

Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *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). You have not explained how the requested information relates to reasonably anticipated or pending litigation. Therefore, we conclude that AISD may not withhold such information from disclosure under section 552.103(a).

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/mjc

Ref: ID# 118068

Ms. Amy Flinn- Page 3

cc: Ms. Cheryl Creighton  
% John Fleming  
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(w/o enclosures)