



October 1, 2002

Ms. Dona G. Hamilton  
University of Houston  
311 East Cullen Building  
Houston, Texas 77204-2028

OR2002-5516

Dear Ms. Hamilton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 170053.

The University of Houston (the "university") received a request for five categories of information. In particular, the requestor seeks:

1. All communications, memos, letters, e-mail, or other documents between Michael Dressman and Maria Bhattacharjee from September 1, 2001 to the present regarding Dr. Evelyn Brown
2. All communications, memos, letters, e-mail, or other documents between Anne Ellis and any member of the administration of [the university], and between any member of the administration of [the university] and Anne Ellis.
3. All communications, memos, letters, e-mail, or other documents from Maria Bhattacharjee and all members of the department of Urban Educations from September 1, 2001 to the present regarding contact hours with students.
4. All evaluations of Michael Dressman and Maria Bhattacharjee from 1997 to the present, and all faculty complaints filed against Dressman and Bhattacharjee.
5. All student responses to an inquiry made by Barbara Joyner regarding Dr. Evelyn Brown's teaching during the Spring semester 2002.

You have not submitted any information responsive to categories 2 through 5 of the request. Therefore, we assume that, to the extent this information exists, it has been released to the

requestor. If not, you must release it immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000) (concluding that section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances). You claim that the submitted information is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.107(1) of the Government Code excepts information that an attorney cannot disclose because of a duty to the attorney's client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107(1) excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3.

The submitted documents consist of e-mails between university staff and university attorneys. You represent that these e-mails are confidential communications seeking legal advice and opinion. Upon review, we agree that the submitted documents reveal the client's confidential communications. Therefore, we conclude you may withhold the submitted documents under section 552.107(1) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Ref: ID# 170053

Enc: Submitted documents

c: Dr. Robert H. Jackson, Ph.D.  
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(w/o enclosures)