



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 17, 2009

Ms. LeAnne Lundy  
Feldman, Rogers, Morris & Grover, L.L.P.  
Attorney for Galveston Independent School District  
5718 Westheimer Road, Suite 1200  
Houston, Texas 77057

OR2009-16303

Dear Ms. Lundy:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 361655.

The Galveston Independent School District (the "district"), which you represent, received a request for five categories of information pertaining to the district's legal costs and fees. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor excluded from her request any information that "may be protected by the attorney-client privilege, including social security numbers and student identifiable information." Therefore, this type of information is not responsive to the instant request, and it need not be released to the requestor.

Next, we note that the information at issue is subject to section 552.022 of the Government Code. This section provides in part:

[T]he following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

---

<sup>1</sup>Although you raise section 552.022 of the Government Code, that provision is not an exception to disclosure. Rather, section 552.022 enumerates categories of information that are not excepted from disclosure unless they are expressly confidential under other law. See Gov't Code § 552.022. Further, although you raise section 552.101 of the Government Code, you have not asserted any law under which any of the information at issue is considered to be confidential for purposes of section 552.101. Thus, we assume you no longer claim this exception. See *Id.* §§ 552.301, .302.

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege[.]

Gov't Code § 552.022(a)(16). In this instance, the responsive information consists of attorney fee bills. Therefore, the district must release the responsive information pursuant to section 552.022(a)(16) unless it is expressly confidential under other law. You claim the responsive information is excepted from disclosure under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception under the Act that protects a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section subject to waiver). As such, section 552.103 does not constitute "other law" that makes information confidential for purposes of section 552.022(a)(16). Therefore, the district may not withhold the responsive information under section 552.103 of the Government Code. As you raise no other arguments against disclosure, the responsive information must be released to the requestor.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 361655

Enc. Submitted documents

c: Requestor  
(w/o enclosures)