



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

May 27, 2015

Ms. Julie Liddell  
Special Administrative Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711-2487

OR2015-10208

Dear Ms. Liddell:

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# 565662.

The State Bar of Texas (the "state bar") received a request for all documents utilized in making a decision on two specified complaints. You state the state bar does not possess information responsive to a portion of the request.<sup>1</sup> You contend that the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered your claims and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>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). 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.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and encompasses information made confidential by other statutes. Gov’t Code § 552.101. You assert the submitted information is confidential and privileged under rule 2.16(A) of the Texas Rules of Disciplinary Procedure.<sup>3</sup> Rule 2.16 pertains to the confidentiality of disciplinary proceedings and associated records and provides that “[a]ll members and staff of the Office of Chief Disciplinary Counsel, board of Disciplinary Appeals[,] Committees, and Commission shall maintain as confidential all Disciplinary Proceedings and associated records,” except by court order or as otherwise provided in rule 2.16. TEX. R. DISCIPLINARY P. 2.16(A), *reprinted in* Gov’t Code tit. 2, subtit. G, App. A-1. Section 81.033(a) of the Government Code provides that:

[a]ll records of the state bar, except for records pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure, and records pertaining to the Texas Board of Legal Specialization, are subject to Chapter 552 [of the Government Code].

Gov’t Code § 81.033(a). You inform us the submitted information pertains to grievance investigations and disciplinary proceedings against an attorney that were ultimately dismissed. Based on your representations and our review, we agree that the submitted information is confidential under rule 2.16(A). We therefore conclude that, pursuant to section 81.033(a) of the Government Code, the submitted information is not subject to the Act and need not be released to the requestor.<sup>4</sup>

You ask this office to issue a previous determination that would authorize the state bar to withhold information that relates to disciplinary proceedings. Because we find that the requested information is not subject to the Act, a previous determination is not appropriate in this case. *See id.* § 552.301(a) (a previous determination is a determination that one of the Act’s exceptions to disclosure applies to the information at issue). Accordingly, 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 more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

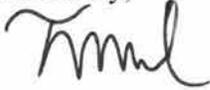
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<sup>3</sup>We note that the rules of the state bar have the same effect as statutes. *See Board of Law Exam’rs v. Stevens*, 868 S.W.2d 773 (Tex. 1994); *see also State Bar v. Wolfe*, 801 S.W.2d 202, 203 (Tex. App.—Houston [1st Dist.] 1990, no writ); *State Bar v. Edwards*, 646 S.W.2d 543, 544 (Tex. App.—Houston [1st Dist.] 1982, writ ref’d n.r.e.).

<sup>4</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 565662

Enc. Submitted documents

c: Requestor  
(w/o enclosures)