



Office of Public Information

October 28, 2019

Office of the Attorney General  
Open Records Division  
P.O. Box 12548  
Austin, Texas 78711

**VIA CMRRR: 70190700000041428849**

*Re:* Public Information Act Disclosure Determination Request PIR #19303\_40\_Dolan

Dear Sir or Madam:

On October 7, 2019, Katy Independent School District received a request for information (the "Request") from Mr. Sean Dolan. Katy ISD submitted its "10-Day Letter" on October 21, 2019, and hereby submits its "15-Day Letter" for consideration and determination.

Katy ISD believes some information sought may not be subject to public disclosure or may be private under current law. As such, the District wishes to obtain a ruling on withholding from public disclosure such information and asserts Texas Government Code Sections 552.101 (Confidentiality under Specific Statutes and Judicial Decision), 552.107 (Certain Legal Matters), or other law or other rules requiring confidentiality that apply to information sought in the Request. The District seeks the opinion of the Office of the Attorney General regarding whether it may withhold certain information sought in the Request and respectfully requests your determination as to whether the exception to required disclosure asserted by Katy ISD applies to such information sought in the Request.

As noted, the Request was received by the District on October 7, 2019. Katy ISD asserts that this request is timely under the Texas Government Code.

Responsive documents not at issue in this request for an opinion from the Office of the Attorney General will be made available to the requestor.

In the Request, the Requestor seeks "all electronic communication between Justin Graham and Dona Cornell for all of 2017, 2018, and 2019 to date."

Katy ISD submits this letter – along with the subject documents, which are attached as Exhibit B, to explain why it should be permitted to withhold or redact such information. Katy ISD seeks the opinion of the Office of the Attorney General as to whether it may withhold or redact certain information responsive to the Request.

§ 552.107; § 552.101 & Texas Rule of Evidence 503 (Certain Legal Matters)

Pursuant to Texas Government Code Chapter 552, Katy ISD respectfully requests your determination as to whether the following exceptions to required disclosure apply: section 552.107 (Certain Legal Matters) and Texas Rule of Evidence 503. Section 552.107 specifically incorporates the attorney-client privilege as an exception to disclosure; the requested information is privileged under Texas Rule of Evidence 503. Section 552.107 is the proper section of the Government Code to raise when asserting the attorney-client privilege in a request for public information that is not subject to section 552.022. Tex. Att’y Gen. ORD-676 at 1-2 (2002). Texas Rule of Evidence 503 is proper to raise for requests of information that fall under Texas Government Code section 552.022. *Id.* at 6.

The attorney-client privilege ensures the free flow of information between attorney and client by assuring that the communication will not later be disclosed. *Republic Ins. Co. v. Davis*, 856 S.W.2d 158, 160 (Tex.1993); *West v. Solito*, 563 S.W.2d 240, 245 (Tex.1978). Confidential communications promote effective legal services, which promote the broader societal interest of the effective administration of justice. *Davis*, 856 S.W.2d at 160; *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981). Certain information sought in the request is exempt from discovery under the attorney client privilege, recognized in Section 552.107(1) of the Public Information Act. Section 552.107(1) excepts information from section 552.021 if "it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Civil Evidence or the Texas Disciplinary Rules of Professional Conduct." Tex. Gov’t Code § 552.107(1). The attorney general has interpreted this exemption to except from disclosure confidential information that falls within the attorney-client privilege. *See* Tex. Att’y Gen. ORD-676 (2002).

The attorney-client privilege protects from disclosure confidential communications made for the purpose of facilitating the rendition of professional legal services. Tex. R. Evid. 503(b)(1). A communication is confidential if it is not intended to be disclosed to third persons. Tex. R. Evid. 503(a)(5). The privilege includes communications between the client or a representative of the client and the client's lawyer or a representative of the lawyer employed to assist the lawyer in the rendition of professional legal services, between the lawyer and the lawyer's representative, between representatives of the client or between the client and a representative of the client, or among lawyers and their representatives representing the same client. Tex. R. Evid. 503(b)(1)(A)-(E). Further, if a communication consists of both privileged and factual or otherwise discoverable information, the entire communication is protected as privileged and is exempt from disclosure under the Act. Tex. Att’y Gen. ORD-676 at 5.

[REDACTED]

[REDACTED]

[REDACTED]

Katy ISD respectfully requests that the office of the Attorney General advise Katy ISD on the District's duty of release of any of the information so submitted. By redacted copy of this letter, I am hereby notifying the requestor of the District's request for opinion from the office of the Attorney General.

Thank you for your attention in this matter.

Sincerely,

Public Information Office  
KATY INDEPENDENT SCHOOL DISTRICT

cc: (redacted w/o enclosures)

Mr. Sean Dolan

**VIA EMAIL: SEAN@ABETTERLEGACY.COM**