



May 11, 2000

Mr. David L. Hay
Coordinator for Information
Dallas County Community College District
701 Elm Street
Dallas, Texas 75202-3299

OR2000-1843

Dear Mr. Hay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135074.

Dallas County Community College District (the "district") received a request for a district trustee's appointment calendar, travel and budget expenses, and any resolutions, motions, or initiatives proposed by the trustee. You have released the latter two requested items. You claim that the requested appointment calendar is not public information as defined by chapter 552 of the Government Code and is, therefore, not subject to disclosure. We have considered your argument reviewed the submitted information.

Section 552.021 of the Government Code provides for public access to "public information." Section 552.002 of the Government Code defines public information subject to the Public Information Act (the "Act") as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Gov't Code § 552.002(a). Information is generally public information within the Act when it relates to the official business of a governmental body or is used by a public official or employee in the performance of official duties, even though it may be handwritten or in the possession of one person. Open Records Decision No. 635 at 4 (1995). A public official's or employee's appointment calendar, including personal entries, may be subject to the Act. *Id.* The following factors, although this is not an exhaustive list, are relevant to determining whether documents are essentially personal in nature: who prepared the document; the nature of its contents; its purpose or use;

who possessed it; who had access to it; whether the employer required its preparation; and whether its existence was necessary to or in furtherance of the employer's business. *Id.* at 5 (citing *In re Grand Jury Proceedings*, 55 F.3d 1012, 1014 (5th Cir. 1995)). We have also held that the ratio of personal to work-related entries is relevant to the nature of the document: "As a general rule, the greater proportion of personal entries, the more likely it is that the trier of fact could reasonably conclude that it was prepared, used, and maintained as a personal document." ORD 635 at 5 n.5 (quoting *In re Grand Jury Proceedings*, 55 F.3d at 1014). Further, if information maintained on a privately owned medium were actually used in connection with the transaction of official business, such as recording the substance of work-related appointments after they have taken place, then the information would be subject to the Act. ORD 635 at 8.

You explain that "Ms. Flores' personal calendar primarily contains personal appointments. Appointments relating to official business of the District are scheduled on Ms. Flores' personal calendar so that personal activities, such as medical appointments or lunchtime engagements, may be scheduled to avoid conflict with District-related responsibilities." Ms. Flores purchased the calendar with her own money, maintains and uses it herself, does not maintain the calendar at a district office, and the calendar is not available to district personnel. She has sole access to the calendar. Based on your representations and our review of the information, we conclude that the calendar is not subject to the Act. The district must withhold the personal calendar.

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).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

CHS/YHL/ljp

Ref: ID# 135074

Encl. Submitted documents

cc: Ms. Susie Rios
8823 Merritt Road
Rowlett, Texas 75089
(w/o enclosures)