



August 30, 2000

Mr. Therold I. Farmer
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P. O. Box 2156
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OR2000-3365

Dear Mr. Farmer:

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# 138635.

The Edinburg Consolidated Independent School District (the "district"), which your law firm represents, found a document, which purports to be, among other things, a request for the district's 1999-2000 list of substitute teachers, and other documents related to the requestor. We note that the requestor previously requested some of the documents at issue, and that a letter ruling has been issued by this office concerning those documents. *See* Open Records Letter Ruling No. 2000-3115 (2000). Therefore, this ruling only addresses the request for the list of substitute teachers. You claim that the information is excepted from disclosure under sections 552.102 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

As a threshold question, the district asks whether the requestor has made a valid request under the Act. It is not reasonable to expect that a posting on a bulletin board is the proper mechanism for a governmental body to receive public information requests under the Act. Therefore, we conclude that the document that the requestor posted on the district's office bulletin board does not constitute a valid request under the Act.

However, in the event the district wishes to comply with this invalid request, we will address the exceptions you have raised. You claim that the list of substitute teachers is excepted from required public disclosure under sections 552.102 and 552.103 of the Government Code. However, we note that this list is public information that is not excepted from required public disclosure under the Act. We specifically refer you to section 552.022 of the Government Code, which provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter *unless they are expressly confidential under other law*:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

...

Gov't Code § 552.022(a)(2) (emphasis added). In the instant case, the submitted information consists entirely of the names of district employees. As such, the substitute teacher list falls within the scope of section 552.022(a)(2). With regard to the public release of the responsive information, you have not asserted, nor do we find, any provision of law that makes the submitted list confidential. Specifically, we note that section 552.102 and common law privacy do not protect the names of employees of a governmental body. *See Open Records Decision No. 554 (1990)* (disclosure of a person's name, home address, and phone number is not an invasion of privacy). Additionally, section 552.103 is a discretionary exception and thereby does not constitute "other law" that makes information confidential.¹ *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475, 476 (Tex. App.—Dallas 1999, *no pet.*) (governmental body may waive litigation exception, section 552.103); *see also Open Records Decision No. 522 at 4 (1989)* (discretionary exceptions in general). Therefore, should the district decide to respond to the invalid request, the requested information would be open pursuant to section 552.022(a)(2) 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

¹Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or the interests of third parties.

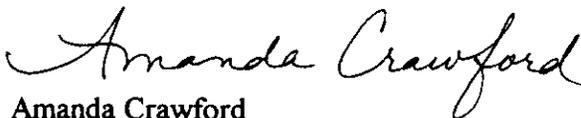
governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

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,



Amanda Crawford
Assistant Attorney General
Open Records Division

AEC/er

Ref: ID# 138635

Encl. Submitted documents

cc: Mr. Guadalupe Olivarez, Jr.
Citrus Bay 262
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(w/o enclosures)