



June 19, 2002

Ms. Marjorie Cain
Associate Superintendent for Administration
Spring Independent School District
16717 Ella Boulevard
Houston, Texas 77090

OR2002-3317

Dear Ms. Cain:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 164526.

The Spring Independent School District (the "district") received a request for a copy of the district's staff directory for the 2001-2002 school year and copies of the Administrative and Support Staff Confidential Directory for the 2000-2001 and 2001-2002 school years. You claim that the requested directories are excepted from disclosure under section 552.1175 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state that you do not have the Administrative and Support Staff Confidential Directory for the 2000-2001 school year. We find that the Public Information Act does not require the district to disclose the 2000-2001 Administrative and Support Staff Confidential Directory because, according to the district, this information did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). Furthermore, we note that you have failed to submit the district's staff directory for the 2001-2002 school year to this office for review. To the extent that this information exists, it must be released to the requestor at this time. See Gov't Code §§ 552.006, .301, .302; see also Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

In regard to the Administrative and Support Staff Confidential Directory for the 2001-2002 school year, section 552.117 of the Government Code excepts from disclosure the home addresses, telephone numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential

in accordance with section 552.024. Additionally, we find that section 552.117 encompasses a personal cell telephone number and pager number, provided that the cell phone service or pager is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular mobile phone numbers paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The district must withhold this type of information pursuant to section 552.117 only to the extent that the respective employee elected to keep this information confidential prior to the district's receipt of the current records request.

Furthermore, section 552.117(2) excepts from public disclosure information that reveals a peace officer's home address, telephone number, and family member information.¹ We note that section 552.117(2) does not except the name of a peace officer from public disclosure as claimed by the district. Therefore, the home address, telephone number, and family member information, as well as the personal cellular phone number and personal pager number of a peace officer, must be withheld regardless of whether an election was made by the officer to keep this information confidential. *See* Open Records Decision No. 670 (2001).

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

¹ "Peace officer" is defined by article 2.12 of the Code of Criminal Procedure.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 164526

Enc: Submitted documents

c: Mr. Gordon Anderson
c/o Marjorie Cain
Spring Independent School District
16717 Ella Boulevard
Houston, Texas 77090
(w/o enclosures)