



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2003

Me. Elneita Hutchins-Taylor
School Attorney
Cypress-Fairbanks Independent School District
P.O. Box 692003
Houston, Texas 77269-2003

OR2003-8722

Dear Ms. Hutchins-Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192291.

The Cypress-Fairbanks Independent School District (the "district") received a request for information related to a named individual, specifically her employment status and health insurance costs. You indicate that you have released the requested information related to the individual's employment status and a schedule of costs for various health care plans, but state that the district does not possess any information responsive to the remainder of the request. You also assert that sections 552.101 and 552.102 of the Government Code would except from disclosure any document the district might create in order to respond to the request. We have considered your arguments and reviewed the submitted information.

The Public Information Act (the "Act") applies only to information in existence at the time the governmental body receives the request for information. *See* Open Records Decision Nos. 452 at 2-3 (1986). The Act does not ordinarily require a governmental body to obtain information not in its possession. Open Records Decision Nos. 558 (1990), 499 (1988). Furthermore, the Act does not require a governmental body to create information in response to a request. *See* Open Records Decision 452 (1986). The request is for "the cost of health insurance for [the individual's] children," "the cost of dental insurance for [the individual's] children" during a certain time period, and "the current monthly cost to insure [the individual's] children." You inform this office that the district does not offer health insurance coverage for children only, but rather that the district offers coverage on an "employee only" or "employee and children" basis. You explain that "[s]ubtracting the

'employee only' amount from the 'employee and children' amount is not an accurate manner of determining what a 'children only' plan might cost."¹ Therefore, the district is unable to provide the requested information. Based on your representation that you have supplied all responsive information, we conclude that you have no further obligation to produce information responsive to this request.²

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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

¹We note that the district is not required under the Act to sign the statement prepared by the requestor that calculates health care costs using this method.

²Because we are able to reach this result, we need not address your additional arguments under sections 552.101 and 552.102 of the Government Code.

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,



Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/sdk

Ref: ID# 192291

Enc: Submitted documents

c: Mr. Roger Williams
P.O. Box 84077
Houston, Texas 77284
(w/o enclosures)