



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 21, 2004

Mr. Sam Buchmeyer
Director of Communications
Grand Prairie Independent School District
P.O. Box 531170
Grand Prairie, Texas 75053-1170

OR2004-8043

Dear Mr. Buchmeyer:

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# 209676.

The Grand Prairie Independent School District (the "district") received a request for contact information of a former district employee. You claim that the requested information is excepted from disclosure under section 552.117 of the Government Code.¹ We have considered your claimed exception.

Initially, we must address the district's obligations under section 552.301 of the Government Code. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving the request for information (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You have not

¹While you raise section 552.024 rather than section 552.117, we note that section 552.024 is not itself an exception to disclosure, but rather a provision of the Act that requires a governmental body to permit officials and employees to elect to keep certain personal information confidential. For employees who timely elect to keep such information confidential, the information may be excepted from disclosure under section 552.117(a)(1) of the Government Code. See Gov't Code §§ 552.024, .117. Thus, we understand you to raise section 552.117 as an exception to disclosure.

submitted any responsive information to this office for review. Thus, you have failed to comply with section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness); Open Records Decision No. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by law or affects third party interests. *See* Open Records Decision No. 150 (1977). You claim that section 552.117 of the Government Code excepts the requested information from disclosure. Although section 552.117 may provide a compelling reason to withhold information from disclosure, because the district did not submit the responsive information to this office for review, we have no basis to find that section 552.117 is applicable to the information. Accordingly, we have no choice but to order the responsive information released pursuant to section 552.302 of the Government Code. If the district believes that this information is confidential and may not lawfully be released, the district must challenge this ruling in court as outlined below.

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).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jh

Ref: ID# 209676

c: Ms. Rachelle M. Howell
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