



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 8, 2006

Ms. Marianna McGowan
Abernathy Roeder Boyd & Joplin, P.C.
P. O. Box 1210
McKinney, Texas 75070-1210

OR2006-04739

Dear Ms. McGowan:

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# 248567.

The Plano Independent School District (the "district"), which you represent, received a request for "access to the inspection of all computer file(s) of [a named teacher's] 11-11-05 lesson plans, instructions, and accompanying documents, materials, information, and the like, on the actual database and/or media on which it/they were created." You state that the district has previously released all the requested information in documentary form; however, you claim the district is not required by the Act to provide the requestor access to a district computer. We have considered your arguments. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we address the requestor's contention that the district is in violation of the procedural requirements of the Act. Pursuant to section 552.301(b) of the Government Code, a governmental body that wishes to withhold requested information from public disclosure must ask for the attorney general's decision about whether the information is excepted under the Act within ten business days after receiving the request for information. *See* Gov't Code § 552.301(a), (b). In this instance, the district informs us that the requested information has been provided to the requestor and, thus, the district is not seeking to withhold the requested information. Accordingly, we find the district has not violated the procedural requirements of section 552.301.

Next, we address whether the district is required by the Act to provide the requestor access to a district computer. We note that in Open Records Decision No. 571 (1990), this office concluded that the Act does not give members of the public a right to use a governmental body's computer to inspect records. Open Records Decision No. 571 at 4 (1990); *see also* Attorney General Opinion JM-672 (1987) (stating that access to records under Act does not include right to access through direct computer searches). Therefore, to the extent the requestor seeks access to the district's computers, we agree that the district has no obligation under the Act to grant such access to the requestor.

However, the requestor also requests the information at issue in the media in which it was created. Section 552.228 of the Government Code requires that a governmental body provide a copy of the public information in the requested medium if it has the technological ability to do so without the purchase software or hardware. *See* Gov't Code § 552.228(b)(1), (2). As noted, you state the district "does not object to providing, and has already provided, computer printouts of the requested public information." However, you have not informed us whether the district has the technological capability to provide the information in the requested media. Accordingly, if the district has the technological capability to provide the information at issue in the requested media, it must do so. However, if the district does not have the technological ability or the required software or hardware to provide the information in the requested media, the district will satisfy its obligations under the Act by providing the requested information to the requestor in paper copies or in another medium acceptable to the requestor. *See* Gov't Code 552.228(c).

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 248567

c: Mr. J. Umoren
c/o Akere & Associates
8500 North Stemmons Freeway, Suite #1070
Dallas, Texas 75247