



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2008

Mr. David P. Hansen
Schwartz & Eichelbaum
Wardell Mehl and Hansen, P.C.
4201 West Parmer Lane Suite A-100
Austin, Texas 78727

OR2008-15513

Dear Mr. Hansen:

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# 327819.

The Mission Consolidated Independent School District (the "district"), which you represent, received a request for 13 categories of information relating to a named employee of the district and her reassignment; district policies, procedures, and guidelines; and the job description of the executive director of maintenance. You state that some of the requested information has been released. You claim that other responsive information is excepted from disclosure under sections 552.135 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

Section 552.135 of the Government Code provides in part:

- (a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].
- (c) Subsection (b) does not apply:

- (1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or
- (2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or
- (3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under this exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* §§ 552.301(e)(1)(A), .135(a). You seek to withhold the highlighted portions of Exhibit B under section 552.135. You state that the highlighted information identifies district employees who provided information relating to an incident that may have constituted an assault. We note, however, that Exhibit B identifies the employees as witnesses to the incident. Moreover, Exhibit B reflects that the district was already aware of the incident when the employees provided their information. Although section 552.135 protects an informer's identity, it does not provide protection for witnesses' information or statements. We therefore conclude that the district may not withhold the highlighted information under section 552.135.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b). You seek to withhold what appear to be internal accounting codes under this exception. You have not demonstrated that the information in question constitutes an access device for the purposes of section 552.136. *See id.* § 552.136(a) (defining "access device"). We therefore conclude that the district may not withhold the accounting codes under section 552.136.

In summary, the district may not withhold any of the submitted information under section 552.135 or section 552.136 of the Government Code. As those are the only exceptions you claim, the submitted information must be released.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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 challenge 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/jh

Ref: ID# 327819

Enc: Submitted documents

c: Mr. Tony Conners
Brim, Arnett, Robinett, Hanner, Conners & McCormick P.C.
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(w/o enclosures)