



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2010

Ms. Christine Badillo  
Walsh, Anderson, Brown, Gallegos and Green, P.C.  
For Pecos-Barstow-Toyah I.S.D.  
P.O. Box 2156  
Austin, Texas 78768

OR2010-07770

Dear Ms. Badillo:

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# 379227.

The Pecos-Barstow-Toyah Independent School District (the "district"), which you represent, received a request for records and forms relating to the list of applicants for superintendent presented to the district's board of directors during two specified months, as well as copies of the resumes submitted by those candidates. You state that the district does not have information responsive to the request for resumes.<sup>1</sup> You claim that the submitted information is excepted from disclosure under section 552.126 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.126 of the Government Code excepts from disclosure the "name of an applicant for the position of superintendent of a public school district . . . except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days" before a vote or final action is taken. Gov't Code § 552.126. You explain that prior to the date of the request, the district board named a lone finalist for the position, and that this information was released to the public. Thus, you assert, and we

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

agree, that the names of any other candidates for the position of superintendent are excepted from disclosure under section 552.126. Furthermore, this protection from disclosure extends not only to the name of the individual, but also to any information tending to identify the individual. *See* Open Records Decision No. 540 (1990) (interpreting section 552.123—which, in language similar to section 552.126, protects identities of applicants for chief executive officer of institution of higher education—as applying to identities, rather than just names of applicants). This office has previously held that the type of information that identifies individuals in such cases includes, but is not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* Therefore, the district may withhold the submitted information pursuant to section 552.126 of the Government Code.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_or1.php](http://www.oag.state.tx.us/open/index_or1.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 379227

Enc. Submitted documents

c: Requestor  
(w/o enclosures)