



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 18, 2010

Ms. Angela H. Robinson
Law, Snakard & Gambill, P.C.
777 Main Street, Suite 3500
Fort Worth, Texas 76102

OR2010-12505

Dear Ms. Robinson:

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# 390936.

The Tarrant County College District (the "district"), which you represent, received a request for (1) any grievances, complaints, and memos regarding two named district employees, (2) leave request forms for those individuals for a specified time period, (3) mileage reimbursement forms for those two individuals for a specified time period, (4) copies of a specified invoice, (5) copies of a specified travel log and any complaints regarding how certain equipment was checked out, and (6) any e-mails sent to or from a named individual concerning the two employees. You state that there are no documents responsive to categories four and six of the request.¹ You also state that you have released some of the remaining requested information. You claim that the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted information.

You assert that the submitted information is not subject to the Act. The Act is applicable to "public information." See Gov't Code § 552.021. Section 552.002 of the Act provides that "public information" consists of "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by

¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it.” *Id.* § 552.002(a). Thus, virtually all information that is in a governmental body’s physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). We note that the submitted information consists of letters regarding the job performance of district employees. We further note that these letters were sent to the district and that the district has maintained possession of the letters. Accordingly, we determine that the submitted information was maintained by the district in connection with the transaction of official business and, thus, is public information as defined by section 552.002. *See* Gov’t Code § 552.002(a). Therefore, the submitted information is subject to the Act and may only be withheld if it is excepted from disclosure under the Act.

We note portions of the submitted information may be subject to section 552.117(a)(1) of the Government Code.² Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024. *See id.* § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who elected confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for the information. Therefore, to the extent the employee whose information is at issue timely elected confidentiality under section 552.024, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. If the employee did not timely elect confidentiality, the district may not withhold the information at issue under section 552.117(a)(1).

In summary, to the extent the employee whose information is at issue timely elected confidentiality under section 552.024, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The remaining information must be released.

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

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/eb

Ref: ID# 390936

Enc. Submitted documents

c: Requestor
(w/o enclosures)