



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2010

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2010-13000

Dear Ms. McGowan: *ATTORNEY GENERAL OF TEXAS*

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# 391679 (DISD ORR# 9448).

The Dallas Independent School District (the "district") received a request for the Legal Review Committee files, campus files, and evaluation history pertaining to a named employee. You claim the submitted investigation and evaluation records are excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code, which states in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

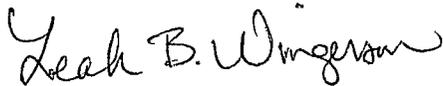
Gov't Code § 552.022(a)(1). The submitted information consists of a completed investigation conducted by the district and completed performance evaluations. Pursuant to section 552.022(a)(1) of the Government Code, completed investigations and evaluations are expressly public, unless they are excepted under section 552.108 of the Government Code or are expressly confidential under other law. Section 552.103 of the Government Code is

a discretionary exception to public disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (discretionary exceptions generally). As such, section 552.103 is not “other law” that makes information confidential for the purposes of section 552.022. Consequently, the submitted information may not be withheld under section 552.103 of the Government Code. As you have not claimed any other exceptions to disclosure, the submitted information must be released.¹

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_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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

¹We note the records being released include the named employee's home and cellular telephone numbers, family information, and social security number, which may be confidential under section 552.117(a)(1) of the Government Code. Because this exception was enacted to protect a person's privacy, the requestor has a right of access to the employee's private information under section 552.023(a) of the Government Code as the employee's authorized representative. *See Gov't Code* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). Furthermore, the records being released contain the employee's criminal history record information obtained from the Texas Department of Public Safety's clearinghouse. Although this information is generally confidential under section 411.0845 of the Government Code, the requestor has a right of access to this information under section 411.097(d)(1)(A) of the Government Code as the employee's authorized representative. *See Gov't Code* § 411.097(d)(1)(A) (criminal history record information obtained by school district may be released to individual who is subject of information). If the district receives another request for this information from an individual other than this requestor, the district should again seek our decision.

Ref: ID# 391679

Enc. Submitted documents

c: Requestor
(w/o enclosures)