



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 22, 2010

Mr. William Christian  
Graves, Dougherty, Hearon & Moody  
P.O. Box 98  
Austin, Texas 78767

OR2010-14358

Dear Mr. Christian:

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# 394367.

The Del Mar College District (the "district"), which you represent, received a request for information pertaining to the Early Retirement Incentive Program of 2008 from a specified time period.<sup>1</sup> You state you are releasing some of the requested information to the requestor. You indicate you are withholding responsive certified agendas or tapes of closed meetings under section 552.101 of the Government Code in conjunction with section 551.104(c) of the Government Code.<sup>2</sup> You claim the submitted information is excepted from disclosure

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<sup>1</sup>You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

<sup>2</sup>We note a governmental body is not required to submit a certified agenda or tape recording of a closed meeting to this office for review. *See* Open Records Decision No. 495 at 4 (attorney general lacks authority to review certified agendas or tapes of executive sessions to determine whether a governmental body may withhold such information from disclosure under statutory predecessor to section 552.101 of the Government Code). We further note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code, without the necessity of requesting an attorney general decision.

under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup> We have also received comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses information that other statutes make confidential, such as section 825.507 of the Government Code, which provides in relevant part:

(a) Records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure in a form that would identify an individual and are exempt from the public access provisions of Chapter 552, except as otherwise provided by this section[.]

...

(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

Gov't Code § 825.507(a), (g). You contend the submitted information is confidential because it constitutes records of participants in the retirement system that are in the custody of the district acting in cooperation with the retirement system. Accordingly, we conclude the submitted information is participant information made confidential by section 825.507 and must be withheld under section 552.101 on that basis. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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](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

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<sup>3</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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,

A handwritten signature in cursive script that reads "C. Alvarado".

Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/tp

Ref: ID# 394367

Enc. Submitted documents

c: Requestor  
(w/o enclosures)