



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 13, 2011

Ms. Christine F. Miller  
McGinnis, Lochridge & Kilgore, L.L.P.  
600 Congress Avenue, Suite 2100  
Austin, Texas 78701

OR2011-00708

Dear Ms. Miller:

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# 405922.

The Round Rock Independent School District (the "district"), which you represent, received a request for mailing and e-mail addresses for district employees covered by the district's vision insurance plan. You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>1</sup>

You claim the requested information is not subject to the Act because the district maintains this information in its capacity as an employee benefit plan sponsor and not in its capacity as a governmental body. The Act is applicable to "public information," as defined by section 552.002 of the Government Code. Section 552.002(a) 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:

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<sup>1</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.

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov't Code § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); see Open Records Decision No. 462 at 4 (1987).

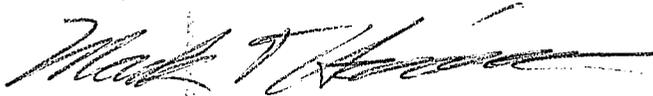
You argue the district has not collected, assembled, or maintained the requested information under a law or ordinance or in connection with the transaction of official business. However, you inform us the district sponsors a vision care plan for its employees. You also state the district maintains the names, mailing addresses, and e-mail addresses of its employees who participate in the plan. Accordingly, the requested information constitutes information "collected, assembled, or maintained . . . in connection with the transaction of official business . . . by [or] for" the district for purposes of section 552.002 of the Government Code. See Gov't Code § 552.002(a)(1)-(2). Therefore, the submitted information is subject to the Act, and must be released, unless an exception to disclosure is applicable. Accordingly, we will address your arguments against disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally protected by common-law privacy. See Open Records Decision Nos. 600 (1992) (employee's designation of retirement beneficiary, choice of insurance carrier, election of optional coverages, direct deposit authorization, forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, participation in voluntary investment program, election of optional insurance coverage, mortgage payments, assets, bills, and credit history). You state the requested information identifies individuals who are enrollees in the district's optional vision care plan, which is funded solely by employee contributions. Upon review, we find the requested information constitutes personal financial information not relating to a transaction between an individual and a governmental body. Thus, the district must withhold the requested information under section 552.101 of the Government Code in conjunction with common-law privacy. As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information.

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 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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 405922

Enc. Submitted documents

c: Requestor  
(w/o enclosures)