



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 25, 2011

Ms. Leila Feldman  
General Counsel  
Fort Bend Independent School District  
14631 Lexington Boulevard  
Sugar Land, Texas 77479

OR2011-01260

Dear Ms. Feldman:

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# 406892.

The Fort Bend Independent School District (the "district") received a request for records pertaining to a specified case and a copy of the student code of conduct. You claim the submitted report is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted the requested student code of conduct for our review. To the extent that document existed on the date the district received the request, we assume it has been released. If not, you must release it at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after

September 1, 1997 are confidential under section 58.007 of the Family Code. The relevant language of section 58.007 reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child; and

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law.

Fam. Code § 58.007(c), (e), (j). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). We find the submitted information consists of law enforcement records of the district's police department (the "department") that involve allegations of a juvenile involved in delinquent

conduct occurring after September 1, 1997. Thus, this information is subject to section 58.007. We note, however, the requestor is the parent of the juvenile suspect named in the report. Therefore, information pertaining to the requestor's child may not be withheld from the requestor on the basis of section 58.007(c). *See id.* § 58.007(e). However, we note section 58.007(j) provides that information subject to any other exception to disclosure under the Act or other law must be redacted. *See id.* § 58.007(j)(2). Therefore, we will consider whether the submitted report is excepted from required public disclosure under the Act or other law.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with [the Family Code] and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*Id.* § 261.201(a). In this instance, you represent, and the submitted report reflects, that the report relates to an investigation by the department of alleged indecency with a child. *See id.* § 261.001(1)(E) (definition of "abuse" for purposes of Fam. Code ch. 261 includes indecency with a child under Penal Code section 21.11); *see also* Penal Code § 21.11 (defining "child" for purposes of section 21.11 as a minor younger than 17 years of age). We note the district is not an agency authorized to conduct a chapter 261 investigation. *See* Fam. Code § 261.103 (listing agencies that may conduct child abuse investigations). However, the submitted report reflects the investigation was conducted by the department, which is so authorized. Thus, we find the submitted report is within the scope of section 261.201(a). You do not indicate the department has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Given that assumption, we find the submitted report is confidential pursuant to section 261.201 of the Family Code and the district must withhold it in its entirety under section 552.101 of the Government Code.<sup>1</sup>

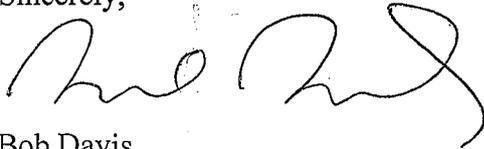
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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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 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 black ink, appearing to read "Bob Davis", written in a cursive style.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/uf

Ref: ID# 406892

Enc. Submitted documents

c: Requestor  
(w/o enclosures)