



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2011

Ms. Sarah Dowdy Young
Thompson & Horton, L.L.P.
For Brownsville Independent School District
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

OR2011-06440

Dear Ms. Young:

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# 416984.

The Brownsville Independent School District (the "district"), which you represent, received a request for information related to a specified investigation. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you acknowledge that the district failed to comply with section 552.301 of the Government Code in seeking an open records decision from this office. Gov't Code § 552.301(b). A governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released unless a governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 (1977). Because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will address this exception.

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 exception encompasses information that other statutes make confidential, such as section 261.201 of the Family Code. Section 261.201 provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this 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.

Fam. Code § 261.201(a); *see also id.* § 261.001 (defining “abuse” and “neglect” for purposes of Fam. Code ch. 261). We note the district is not an agency authorized to conduct chapter 261 investigations. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, you state the submitted information was used in an investigation conducted by the district’s police department, which is an agency authorized to conduct chapter 261 investigations. Based upon your representations and our review, we find that the submitted information constitutes information that was used or developed in an investigation by the district’s police department into alleged child abuse. Thus, these documents are within the scope of section 261.201(a). You do not indicate the district’s police department has adopted a rule that governs the release of this type of information. Accordingly, we assume no such regulation exists. Thus, we conclude that this information is confidential under section 261.201 of the Family Code, and must be withheld in its entirety under section 552.101 of the Government Code.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.

¹As our ruling as to this information is dispositive, we do not address your argument against its disclosure.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 416984

Enc. Submitted documents

c: Requestor
(w/o enclosures)