



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 3, 2011

Mr. Eric G. Rodriguez
Walsh, Anderson, Brown, Gallegos & Green, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2011-07874

Dear Mr. Rodriguez:

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# 419771.

The Southwest Independent School District (the "district"), which you represent, received a request for eight categories of information, including information pertaining to a named student and information pertaining to training and specific policies and procedures. You claim that the responsive information is excepted from disclosure under sections 552.101 through 552.148 of the Government Code. We have considered the exceptions you claim.

Initially, you state and provide documentation the district sought clarification with respect to portions of the request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed). You state the district has not received clarification of the portions of the request at issue. Thus, for the portions of the requested information for which you have not received clarification, we find the district is not required to release information in response to those portions of the request. However, if the requestor clarifies those portions of the request for information, the district must seek a ruling from this office before withholding any responsive information from the requestor. *See City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010).

Next, we must address the district's obligations under the Act with respect to the remaining portions of the request. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). As of the date of this letter, you have not submitted to this office comments explaining why the stated exceptions apply or a copy or representative sample of the remaining information requested. Consequently, we find the district failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to submit to this office the information required in section 552.301(e) results in the legal presumption the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Because the district has failed to comply with the procedural requirements of the Act, the district has waived all of its claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions). Although the district also raises mandatory exceptions to disclosure, because you have not submitted the remaining requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the remaining requested information released pursuant to section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,

A handwritten signature in cursive script that reads "Laura Ream Lemus".

Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

Ref: ID# 419771

c: Requestor