



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 14, 2011

Mr. W. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR2011-08392

Dear Mr. Meitler:

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# 420651 (TEA PIR No. 15123).

The Texas Education Agency (the "agency") received a request for all documents governing the agency's appointment of a named independent hearing officer and all documents reflecting the agency's investigation into complaints relating to the hearing officer's decisions or administration of due process hearings. You state the agency will release some responsive information. You also state the agency has redacted social security numbers from the submitted documents.¹ Although you take no position on the public availability of the submitted information, you state the release of this information may implicate the proprietary interests of the hearing officer. Accordingly, you state, and provide documentation showing, you have notified the hearing officer of the request and of the hearing officer's right to submit arguments to this office as to why the requested information should not be released. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances).* We have reviewed the submitted information.

Initially, you inform us the agency requested clarification of the portion of the request relating to the complaints information. *See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).* You further inform us the agency has not received a response to its request for

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

clarification. Accordingly, the agency has no obligation at this time to release any information that might be responsive to this portion of the request. However, if the agency receives clarification and wishes to withhold any of the information encompassed by the clarified request, you must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from the hearing officer. We, thus, have no basis for concluding any portion of the submitted information constitutes the third party's proprietary information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the agency may not withhold any of the submitted information based on the proprietary interests of the hearing officer. As no exceptions to disclosure have been raised, the submitted information must be released.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 420651

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Named Hearing Officer
(w/o enclosures)