



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 28, 2011

Ms. Elizabeth D. Nelson
For the Coppell Independent School District
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2011-19070

Dear Ms. Nelson:

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# 440462.

The Coppell Independent School District (the "district"), which you represent, received a request for (1) copies of all executed agreements between New Tech High School at Coppell (the "school") and New Tech Network ("New Tech") and (2) all written correspondence or documentation between the school and New Tech regarding any written agreements between the school and New Tech. You claim some of the submitted information is excepted from disclosure under section 552.136 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of New Tech. Accordingly, you state you notified New Tech of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us some of the submitted information, which you have marked, is not responsive because it consists neither of executed agreements between the school and New Tech, nor of correspondence between the school and New Tech. The district need not release

this nonresponsive information in response to this request, and this ruling will not address that information.

Next, 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, this office has not received comments from New Tech explaining why any of the responsive information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the responsive information would implicate New Tech's interests. *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, we conclude that the district may not withhold any of the responsive information on the basis of any interest New Tech may have in it.

Section 552.136 provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). Accordingly, the district must withhold the routing and bank account numbers you have marked under section 552.136 of the Government Code.

We note that a portion of the remaining responsive information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district must withhold the information you have marked under section 552.136 of the Government Code. The district must release the remaining responsive information to the requestor, but only in accordance with copyright law.¹

¹We note the remaining responsive information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/agn

Ref: ID# 440462

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Lydia Dobyms
President
New Tech Network
1040 Main Street, Suite 302
Napa, California 94559
(w/o enclosures)