



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 3, 2012

Ms. Elisabeth D. Nelson  
Ms. Andrea Sheehan  
Law Offices of Robert E. Luna, P.C.  
4411 North Central Expressway  
Dallas, Texas 75205

OR2012-00059

Dear Ms. Nelson and Ms. Sheehan:

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# 441054.

The Carrollton-Farmers Branch Independent School District (the "district"), which you represent, received a request for written agreements between the district's Math, Engineering, and Science Academy ("MESA") and New Tech Network ("New Tech") and correspondence between MESA and New Tech regarding written agreements. You state you are releasing some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.117 and 552.137 of the Government Code. You also believe the request for information may implicate the proprietary interests of New Tech. You inform us New Tech was notified of this 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); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some of the information in Exhibit C is not responsive because it does not consist of communications between MESA and New Tech regarding written agreements. Accordingly, we find this information, which you have marked, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

Next, an interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has not received any correspondence from New Tech. Therefore, New Tech has not demonstrated that any of the information at issue is proprietary for the purposes of the Act, and the district may not withhold any of the responsive information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117. Additionally section 552.117 encompasses a personal cellular telephone number, provided the cellular service is paid for by the employee with his or her personal funds. *See* Open Records Decision No. 506 at 5-7 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for information is made. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for information. Therefore, to the extent the individual concerned timely requested confidentiality under section 552.024, the district must withhold the information you have marked under section 552.117(a)(1) of the Government Code. To the extent the named individual did not timely request confidentiality under section 552.024, the district may not withhold the marked information under section 552.117(a)(1).

Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). Provided the e-mail addresses at issue are not excluded by subsection (c), the district must withhold the e-mail addresses you have marked under section 552.137, unless their owners affirmatively consent to their public disclosure.

Some of the materials at issue are 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, to the extent the individual concerned timely requested confidentiality under section 552.024, the district must withhold the information you have marked under section 552.117(a)(1) of the Government Code. Provided the e-mail addresses at issue are not excluded by subsection (c), the district must withhold the e-mail addresses you have marked under section 552.137, unless their owners affirmatively consent to their public disclosure. The remaining responsive information must be released, but any copyrighted information may only be released in accordance with copyright law.

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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/ag

Ref: ID# 441054

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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New Tech Network  
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(w/o enclosures)