



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 18, 2012

Ms. Leticia D. McGowan  
School Attorney  
Dallas Independent School District  
3700 Ross Avenue  
Dallas, Texas 75204

OR2012-05544

Dear Ms. McGowan:

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# 451266 (ORR#s 10872, 10937, and 10944).

The Dallas Independent School District (the "district") received three requests from two requestors for investigative, personnel and other information involving a named employee. You state some of the information responsive to the second and third requests either has been or will be released. You inform us some of the submitted information was the subject of a previous open records letter ruling. You also claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted. We also have considered the comments we received from the first requestor. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

You state some of the submitted information was the subject of a previous request by the district for a ruling, in response to which this office issued Open Records Letter No. 2012-01315 (2012). In the previous ruling, we concluded the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. You do not indicate there has been any change in the law, facts, and circumstances on which the previous ruling is based. We therefore conclude the district may rely on Open Records Letter No. 2012-01315 as a previous determination.

*See* Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). Thus, the district must continue to withhold the information encompassed by Open Records Letter No. 2012-01315 pursuant to the previous ruling.<sup>1</sup> To the extent the previous ruling does not encompass the submitted information, we will consider your arguments against disclosure.

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. Section 552.101 encompasses section 261.201 of the Family Code, which provides in 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). You claim the submitted information is confidential under section 261.201. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, you state the district has an employee on its staff who is shared with the Texas Department of Family and Protective Services (“DFPS”) to receive and investigate child abuse claims. You also state the submitted information was used by the Dallas Police Department, the DFPS, or district police officers, who are commissioned peace officers with the authority to investigate child abuse claims, to investigate such claims. Based on your representations and our review, we find the submitted information was used or developed by these investigating agencies in a child abuse investigation. *See id.* §§ 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261), 101.003(a) (defining “child” for purposes of section 261.201 as “person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes”). Therefore, we find the submitted information falls within the scope of section 261.201(a) of the Family Code. You do not indicate any of the investigating agencies has adopted any rules that govern the release of this type of information; therefore, we

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<sup>1</sup>As we are able to make this determination, we need not address your exceptions to disclosure of the submitted information encompassed by Open Records Letter No. 2012-01315.

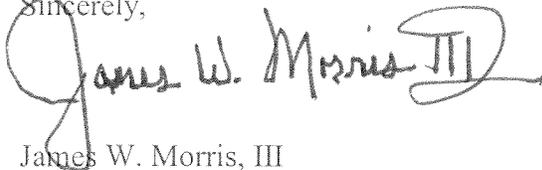
assume no such rules exist. Given that assumption, we conclude the district must withhold any submitted information not encompassed by Open Records Letter No. 2012-01315 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (applying predecessor statute).

In summary, the district must withhold (1) any submitted information encompassed by Open Records Letter No. 2012-01315 pursuant to the previous ruling and (2) any submitted information not encompassed by the previous ruling under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.<sup>2</sup>

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 451266

Enc: Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>2</sup>As we are able to make this determination, we need not address the other exception you claim.