



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2012

Mr. Humberto Aguilera
Escamilla, Poneck & Cruz, LLP
P.O. Box 200
San Antonio, Texas 78291-0200

OR2012-08133

Dear Mr. Aguilera:

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# 454788.

The Eagle Pass Independent School District (the “district”), which you represent, received a request for the resumes and other supporting materials submitted by applicants for the position of superintendent. You claim the submitted information is excepted from disclosure under sections 552.102 and 552.126 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.126 excepts from disclosure the “name of an applicant for the position of superintendent of a public school district . . . except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days” before a vote or final action is taken. Gov’t Code § 552.126. Furthermore, this protection from disclosure extends not only to the name of the individual, but also to any information tending to identify the individual. *See* Open Records Decision No. 540 (1990) (interpreting section 552.123—which, in language similar to section 552.126, protects identities of applicants for chief executive officer of institution of higher education—as applying to identities, rather than just names of applicants). This office has previously held the type of information that identifies individuals in such cases includes, but is not limited to, resumes, professional qualifications, membership in professional organizations, dates of

birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* You explain at the time of the request, the district board had not named a finalist for the position. You further explain that the submitted information compromises the applications of all applicants for the position of superintendent. Due to the uniqueness of each applicant, you assert the records are excepted from disclosure in their entirety under section 552.126. Based on your representations and our review, we agree portions of the information at issue, which we have marked, identify or tend to identify particular candidates for the position of superintendent. Therefore, the district may withhold the marked information under section 552.126 of the Government Code.¹ However, upon review, we find you have failed to demonstrate how the remaining information at issue identifies or tends to identify any particular candidate for the position of superintendent. Accordingly, the district may not withhold any of the remaining information under section 552.126.

We note, some of the remaining information is subject to section 552.137 of the Government Code.² 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). Gov’t Code § 552.137(a)-(c). The remaining information contains e-mail addresses of members of the public. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code unless the owners consent to their release.

In summary, the district may withhold the marked information under section 552.126 of the Government Code. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code unless the owners consent to their release. The remaining 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,

¹As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, appearing to read 'Tamara Wilcox', written in a cursive style.

Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/bs

Ref: ID# 454788

Enc. Submitted documents

c: Requestor
(w/o enclosures)