



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2012

Mr. S. Anthony Safi  
Counsel for the El Paso Independent School District  
Mounce, Green, Myers, Safi, Paxson & Galatzan  
P.O. Box 1977  
El Paso, Texas 79999-1977

OR2012-08772

Dear Mr. Safi:

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# 455719 (EPISD ORR# 2012.72).

The El Paso Independent School District (the "district") received a request for (1) the requestor's personnel file; (2) all electronic communications to or from district employees that concern, reference, or relate to the requestor from February 21, 2012 to the date of the request; and (3) all documents pertaining to allegations of wrongdoing or misconduct against the requestor during the same time period. You state you are providing some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This section encompasses information made confidential by other statutes. Section 261.201(a) of the Family Code provides as follows:

(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 assert portions of the submitted information are subject to section 261.201(a) of the Family Code. *See id.* § 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of this section 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). 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 or neglect investigations). However, upon review, we find a portion of the submitted information is a record of a communication used in an investigation by the Child Protective Services Division of the Department of Family and Protective Services (“CPS”) under this chapter or in providing services as a result of a chapter 261 investigation. In addition, we agree a portion of the remaining information reveals the identity of the individual who made the report of alleged or suspected child abuse to CPS. Therefore, the information we have marked and the identity of the person who made the report must be withheld under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, you have failed to demonstrate how the remaining information at issue is a report of alleged or suspected abuse or neglect, reveals the identity of the person who made a report under chapter 261, or was used or developed in a chapter 261 investigation. Thus, no portion of the remaining information at issue may be withheld under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.135 of the Government Code provides the following:

- (a) “Informer” means a student or former student or an employee or former employee of a school district who has furnished a report of another person’s or persons’ possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (b) An informer’s name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov’t Code § 552.135. Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of “law,” a school district that seeks to withhold information under the exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.*

§§ 552.301(e)(1)(A). In this instance, you claim the information you have marked reveals the identity of an informer who reported possible violations of the Educator Code of Ethics, section 247.2 of title 19 of the Texas Administrative Code. Based on your representation and our review, we conclude the district must withhold the information we have marked under section 552.135 of the Government Code. However, the district has failed to demonstrate how any of the remaining information at issue reveals the identity of an informer for the purposes of section 552.135 of the Government Code. Therefore, none of the remaining information at issue may be withheld on that basis.

In summary, the district must withhold the information we have marked and the identity of the person who made the report under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The district must also withhold the information we have marked under section 552.135 of the Government Code. 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](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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 455719

Enc. Submitted documents

c: Requestor  
(w/o enclosures)