



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 15, 2012

Ms. Christine Badillo  
For Leander Independent School District  
Walsh, Anderson, Gallegos, Green and Treviño, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2012-09292

Dear Ms. Badillo:

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# 456391.

The Leander Independent School District (the "the district"), which you represent, received a request for the personnel records of a former district employee. The district has released some of the requested information. You claim that 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 submitted information.

Initially, we must address the district's obligations under section 552.301 of the Government Code. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply not later than the tenth business day after the date of receiving the written request. *See* Gov't Code § 552.301(b). You state that the district received the present request for information on March 22, 2012. Thus the district's ten-business-day deadline was April 5, 2012. *See id.* § 552.308(a) (describing rules for calculating submission dates of documents sent via first class United States mail). However, you did not request a decision from this office until April 10, 2012. Consequently, the district failed to comply with the requirements of section 552.301(b) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Forth Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-81 (Tex. App.—Austin 1990, no writ); *see* Open Records Decision No. 630 (1994). The presumption that information is public under section 552.302 can generally be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3, 325 at 2 (1982). Because your claims under section 552.101 and section 552.135 of the Government Code can provide compelling reasons for non-disclosure, 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. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, we find the submitted information is not highly intimate or embarrassing. Therefore, the submitted information is not confidential under common-law privacy, and the district may not withhold it under section 552.101 on that ground.

You assert the submitted information is excepted from disclosure under section 552.135 of the Government Code, which provides in relevant part 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].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or

former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). 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 that 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). You assert the submitted information is excepted from disclosure in its entirety because it pertains to an allegation by a school employee of a criminal violation. Based on this representation and our review, we find the district must withhold the information we have marked under section 552.135 of the Government Code. However, we find none of the remaining information identifies individuals who reported the alleged violation of law. Thus, we conclude you have failed to establish any of the remaining information is excepted from disclosure under section 552.135 of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> *Id.* § 552.130(a)(2). Accordingly, the district must withhold the motor vehicle record information we have marked under section 552.130.

In summary, the district must withhold the information we have marked under section 552.135 of the Government Code. The district must withhold the motor vehicle record information we have marked under section 552.130 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),

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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, appearing to read 'VB', with a long horizontal flourish extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

Ref: ID# 456391

Enc. Submitted documents

c: Requestor  
(w/o enclosures)