



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

June 29, 2012

Ms. Sarah C. Dionne  
Attorney for Donna Independent School District  
Law Offices of Guerra & Farah, PLLC  
4101 Washington Avenue, 3<sup>rd</sup> Floor  
Houston, Texas 77007

OR2012-10071

Dear Ms. Dionne:

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# 457636.

The Donna Independent School District (the "district"), which you represent, received a request for a named employee's personnel file, including any investigation reports regarding the named employee. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor states his request specifically excludes social security numbers, dates of birth, district employee numbers, PDAS appraisal documents, federal income tax documents, health insurance information, any health information confidential under HIPAA, and personally identifiable information pertaining to any district student. Accordingly, such information is not responsive to the request. This decision does not address the public availability of non-responsive information and such information need not be released in response to the present request.

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 protected by statutes. Section 261.201 of the Family Code provides in part as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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); *see id.* § 261.001(1) (defining “abuse” for purposes of Family Code chapter 261). You claim the submitted information was used or developed in an investigation of alleged or suspected child abuse by the Texas Department of Family and Protective Services (“DFPS”) under chapter 261 of the Family Code. We note, although the district is not an agency authorized to conduct an investigation under chapter 261, DFPS is an authorized agency. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). Upon review, we agree the submitted information was used or developed in an investigation conducted under chapter 261. Therefore, we find the submitted information is within the scope of section 261.201 of the Family Code. You have not indicated DFPS has adopted rules that govern the release of this type of information in this instance; therefore, we assume no such regulations exist. Given that assumption, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

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\\_or1.php](http://www.oag.state.tx.us/open/index_or1.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 "Cynthia G. Tynan". The signature is written in a cursive style with a large initial "C".

Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/ag

Ref: ID# 457636

Enc. Submitted documents

c: Requestor  
(w/o enclosures)