



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

August 2, 2012

Mr. Orlando Jay Juarez, Jr.  
Counsel for the United ISD  
Escamilla, Poneck, & Cruz, LLP  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2012-12096

Dear Mr. Juarez:

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# 460983.

The United Independent School District (the "district"), which you represent, received a request for (1) all invoices, statements, receipts, reimbursements, forms, deposits, correspondence, and any other information pertaining to a specified cheerleading group; and (2) all donations and e-mails sent between two named individuals. You claim the requested information is excepted from disclosure under sections 552.101, 552.114, 552.136, 552.137, and 552.148 of the Government Code.<sup>1</sup> We have considered the exceptions you claim.

We must address the district's obligations under the Act. Section 552.301 of the Government Code describes the obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request.

---

<sup>1</sup>Although you raise section 552.206 of the Government Code, we note this section does not exist. Thus, we understand you to raise section 552.026 of the Government Code. However, we note section 552.026 is not an exception to disclosure. Rather, section 552.026 provides the Act does not require the release of information contained in education records except in conformity with the Family Educational Rights and Privacy Act of 1974. Gov't Code § 552.026.

*See* Gov't Code § 552.301(b). Furthermore, pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). You state the district received the present request for information on May 9, 2012. Accordingly the district's ten- and fifteen-business-day deadlines were May 23, 2012, and May 31, 2012, respectively. The district's request for a decision, however, bears a post office mark showing it was mailed on May 24, 2012. *See id.* § 552.308(a) (ten-day deadline met if request for ruling bears post office mark indicating time within ten-day period). Furthermore, as of the date of this letter, the district has not submitted to this office general written comments stating the reasons why the raised exceptions apply to the requested information or a copy or representative sample of the specific information requested. Accordingly, we conclude the district failed to comply with the requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Although sections 552.101, 552.114, 552.136, 552.137, and 552.148 of the Government Code can provide compelling reasons to withhold information, because the district has not submitted a copy or representative sample of the specific information requested for our review, we have no basis for finding it confidential under these exceptions. Thus, we must order the district to release this information in accordance with section 552.302 of the Government Code. If you believe this information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government 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\\_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, appearing to read 'Nneka Kanu', written over a horizontal line.

**Nneka Kanu**  
**Assistant Attorney General**  
**Open Records Division**

NK/bhf

Ref: ID# 460983

Enc. Submitted documents

c: Requestor