



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 14, 2012

Mr. Orlando Juarez, Jr.
Counsel for the United Independent School District
Escamilla, Poneck & Cruz, L.L.P.
216 West Village Boulevard, Suite 202
Laredo, Texas 78041

OR2012-12755

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# 462133.

The United Independent School District (the "district"), which you represent, received a request for seven categories of information related to the requestor's client; specified intervention and/or growth plans; any documents supporting and/or relating to these intervention plans; specified policies, procedures, and/or guidelines; and a copy of complaints and/or grievances filed against the district during a specified time period. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

Initially, we note a portion of the requested information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-09226 (2012). In that decision, we ruled the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. Accordingly, as we are unaware of any change in the relevant law, facts, and circumstances on which the previous ruling was based, then to the extent the requested information is identical to the information submitted in that ruling, we conclude the district must rely on Open Records Letter No. 2012-09226 as a previous determination and withhold such information in accordance with it. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based

have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the prior ruling, we will consider your argument against disclosure.

Next, we must address the district's procedural obligations under the Act for the requested information. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body that receives a request for information it wishes to withhold under the Act 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. Gov't Code § 552.301(e). You state the district received the instant request for information on May 24, 2012. Thus, the district's fifteen-business-day deadline was June 15, 2012. However, as of the date of this letter, the district has not submitted to this office general written comments stating the reasons why the claimed exception applies to the requested information or a copy of the specific information requested or a representative sample. Accordingly, we find the district has failed to comply with the requirements of section 552.301(e) 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 information at issue is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public); *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) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). The district raises section 552.101 of the Government Code, which is a mandatory exception to disclosure. However, because you have not submitted a copy or representative sample of the requested information for our review, we have no basis for finding that any of this information is excepted from required disclosure or confidential by law. Therefore, we must order the district to release the requested information pursuant to section 552.302 of the Government Code.

In summary, to the extent the requested information is identical to the information submitted in Open Records Letter No. 2012-09226, the district must rely on that ruling as a previous determination and withhold such information in accordance with it. Otherwise, the district must release the requested information. 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 462133

Enc. Submitted documents

c: Requestor