



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 31, 2014

Ms. Elisabeth D. Nelson  
Counsel for the Garland Independent School District  
Law Offices of Robert E. Luna, P.C.  
4411 North Central Expressway  
Dallas, Texas 75205

OR2014-01948

Dear Ms. Nelson:

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# 512701.

The Garland Independent School District (the "district"), which you represent, received a request for information pertaining to any and all investigations of a named individual for a specified period of time. You claim the submitted information is excepted from disclosure under section 552.152 of the Government Code. Additionally, you state you have notified the named individual of his right to submit comments to this office explaining why the submitted information should not be released.<sup>1</sup> *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor specifically excludes the names of any person making an outcry/statement against the named individual; therefore, this information, which you have marked, is not responsive. This ruling does not address the public availability of any

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<sup>1</sup>As of the date of this letter, we have not received comments from the named individual explaining why the submitted information should not be released.

information that is not responsive to the request, and the district is not required to release that information in response to the request.

Next, we note, and you acknowledge, the district has not complied with the procedural requirements of section 552.301 of the Governmental Code in requesting this ruling. *See id.* § 552.301(b), (e). 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 is public and must be released, unless the 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 (Tex. App.—Fort Worth 2005, no pet); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (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. 319 (1982). This office has held that a compelling reason exists to withhold information when the information is confidential by law or affects third party interests. *See* Open Records Decision No. 150 (1977). Because section 552.152 can provide a compelling reason to withhold information, we will consider your arguments regarding this exception.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. Upon review, we find you have failed to demonstrate that release of any of the responsive information would subject the named individual to a substantial threat of physical harm. Accordingly, the district may not withhold any of the responsive information under section 552.152 of the Government Code. As no other exceptions to disclosure have been raised, the district must release the responsive information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 512701

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)