



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2014

Ms. Maria E. Miller
Legal Department
Dallas County Community College District
1601 South Lamar Street, Suite 208
Dallas, Texas 75215-1816

OR2014-12072

Dear Ms. Miller:

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# 534555.

The Dallas County Community College District (the "district") received a request for information related to the Jail Education Program.¹ You inform us the district has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code and privileged under Texas Rule of Evidence 503. We have considered your claims and reviewed the submitted information.

We must address the district's procedural obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving an open records request: (1) written comments stating the reasons why the stated exceptions apply that would allow the

¹As you did not submit a copy of the request for information, we take our description from your brief to this office.

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. *Id.* § 552.301(e)(1)(A)-(D).

You state the district received the instant request on June 2, 2014. Accordingly, you were required to provide the information required by subsection 552.301(b) by June 16, 2014. However, you did not request a ruling from this office until June 20, 2014. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Furthermore, as of the date of this letter, you have not submitted a copy of the request for information. Consequently, we find the district failed to comply with the requirements of section 552.301 in requesting this decision from our office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *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, 381-82 (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. 630 (1994). Generally, 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. Open Records Decision No. 150 at 2 (1977).

Although you raise the attorney-client privilege under section 552.107 of the Government Code and Texas Rule of Evidence 503, this section and this rule are discretionary in nature. They serve only to protect a governmental body's interests, and may be waived; as such, they do not constitute compelling reasons to withhold information. *See* Open Records Decision Nos. 676 at 12 (claim of attorney-client privilege under section 552.107 or rule 503 does not provide compelling reason to withhold information under section 552.302 if it does not implicate third-party rights), 665 at 2 n.5 (2000) (discretionary exceptions in general). Thus, the district has waived its claims under section 552.107 and rule 503 for the submitted information. As no other exceptions to disclosure have been raised, the district must release the submitted 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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 534555

Enc. Submitted documents

c: Requestor
(w/o enclosures)

