



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2014

Ms. Brandy N. Davis
Counsel for the Prosper Independent School District
Abernathy Roeder Boyd & Joplin P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2014-12163

Dear Ms. Davis:

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# 530545.

The Prosper Independent School District (the "district"), which you represent, received two requests from the same requestor for the following: (1) the district's document retention schedule; (2) the district's "Crisis Management Plan;" (3) any policies, procedures, and documentation relating to a situation where a weapon is or is believed to be on campus; (4) policies, documentation, or agreements relating to district employees' obtaining reimbursement for cellular telephones, cellular telephone service, "home internet service, iPads, iPad internet service, and/or laptops" that were in effect during a specified time period; and (5) policies, documentation, or agreements relating to acceptable use of electronic communication or computer devices by district employees. 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. We have also received and considered comments from a representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note you have only submitted the district's Emergency Operations Plan. Thus, to the extent any additional responsive information existed when the present requests were received, we assume it has been released. If such information has not been released, then it

must be released at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 other statutes. As part of the Texas Homeland Security Act (the “HSA”), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.176 of the Government Code provides, in relevant part:

(a) Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

(1) relates to staffing requirements of an emergency response provider, including a law enforcement agency, a fire-fighting agency, or an emergency services agency; [or]

(2) relates to a tactical plan of the provider; or

(3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

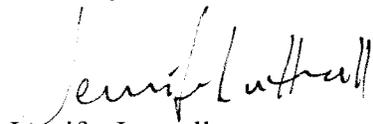
Id. § 418.176(a)(1)-(3). The fact that information may generally be related to emergency preparedness does not make the information *per se* confidential under the provisions of the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provisions controls scope of its protection). As with any confidentiality statute, a governmental body asserting this section must adequately explain how the responsive information falls within the scope of the provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You inform us the submitted information, consisting of the district’s Emergency Operations Plan (the “plan”), identifies the procedures to be followed in the event of terrorism, disaster, or assault, including particular steps to be taken by district personnel. You further explain the plan was developed by the district’s police department. Upon review, we conclude the submitted information relates to staffing requirements and tactical plans of emergency response providers maintained by the district for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity. Accordingly, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.176 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.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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 530545

Enc. Submitted documents

c: Requestor
(w/o enclosures)