



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2014

Ms. Sylvia Hardman-Dingle
General Counsel
Texas Department of Assistive and Rehabilitative Services
4800 North Lamar Boulevard, Suite 300, MC-1419
Austin, Texas 78756

OR2014-13303

Dear Ms. Hardman-Dingle:

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# 531165 (PIA Request No. 2014 05/12-1 Wright).

The Texas Department of Assistive and Rehabilitative Services (the "department") received a request for an e-mail a named person sent on October 22, 2013 to a department employee. The department claims the information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information. We have also received and considered comments from the requestor and the party named in the request. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

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. Section 552.101 encompasses information made confidential by other statutes. Section 111.018(b) of the Human Resources Code provides:

(b) In carrying out his or her duties under this chapter, the commissioner shall, with the approval of the board, implement policies addressing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and

determination for rehabilitation and other services, procedures for hearings, and other regulations subject to this section as necessary to carry out the purposes of this chapter.¹

Hum. Res. Code § 111.018(b). Under the authority of section 111.018(b), the department promulgated rules making information of a consumer in a vocational rehabilitation program confidential. Specifically, section 101.809 of title 40 of the Texas Administrative Code provides in relevant part:

(a) Consumer records.

(1) All personal information available to [department] employees as they administer rehabilitation services programs, including names, addresses, and records of consumer evaluations, is confidential.

(2) [The department] may use such information and records only for purposes directly connected with administering the rehabilitation programs.

(3) [The department] may directly or indirectly disclose information only in administering the rehabilitation programs, except with the consumer's written consent, in compliance with a court order, or in accordance with a federal or state law or regulation. [The department] may not share information containing identifiable personal information with advisory or other bodies that do not have official responsibilities for administration of the programs.

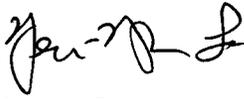
40 T.A.C. § 101.809(a)(1)-(3). The department asserts the information is protected by federal and state statutory and regulatory laws; the consumer has not consented to release of the information; and release of the information is not in connection with the administration of a rehabilitation program. Because the request is for a named consumer's e-mail and based on the department's arguments and our review, we conclude release of any of the requested information would directly or indirectly disclose a consumer's personal information. Thus, we find the requested information is confidential and the department must withhold it pursuant to section 552.101 of the Government Code in conjunction with section 101.809 of title 40 of the Texas Administrative Code. Because section 101.809 is dispositive, we do not address the department's other assertions.

¹The 78th Legislature transferred all powers, duties, functions, programs, and activities of the former Texas Rehabilitation Commission to the department effective March 1, 2004. See Act of June 1, 2003, 78th Leg., R.S., ch. 198, §§ 1.01, 1.21, 1.26, 2003 Tex. Gen. Laws 611, 612, 641.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 531165

Enc. Submitted documents

c: Requestor
(w/o enclosure)