



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 2, 2014

Mr. Tony Torres
Flores & Torres, L.L.P.
118 East Cano Street
Edinburg, Texas 78539

OR2014-15385

Dear Mr. Torres:

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# 534823.

The Mercedes Independent School District (the "district"), which you represent, received a request for the telephone number and e-mail address of a named district employee. You claim the requested information is excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

We note the submitted information consists of a letter dated June 19, 2014, after the date the district received the request for information. Because you represent the submitted record "contains information that was gathered from [the employee's] personnel file[.]" we will consider the submitted telephone number and e-mail address responsive and address your arguments against disclosure of this information. Because the request is limited to the employee's telephone number and e-mail address, the remaining submitted information is not responsive to the present request and this ruling will not address that information.

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We next note the requestor is an investigator for the Texas Education Agency (the "TEA"). You inform us the TEA is seeking the requested information under the authority provided to the State Board for Educator Certification ("SBEC") by section 249.14 of title 19 of the Texas Administrative Code.² Accordingly, we will consider whether section 249.14 of title 19 of the Texas Administrative Code permits the TEA to obtain information that is otherwise protected by your claimed exceptions. *See* Open Records Decision No. 451 at 4 (1986) (specific access provision prevails over generally applicable exception to public disclosure).

Chapter 249 of title 19 of the Texas Administrative Code governs disciplinary proceedings, sanctions, and contested cases involving SBEC. *See* 19 T.A.C. § 249.4. Section 249.14 provides in relevant part:

(a) The [TEA] staff may obtain and investigate information concerning alleged improper conduct by an educator, applicant, examinee, or other person subject to this chapter that would warrant the [SBEC] denying relief to or taking disciplinary action against the person or certificate.

...

(c) The TEA staff may also obtain and act on other information providing grounds for investigation and possible action under this chapter.

19 T.A.C. § 249.14(a), (c). The requestor states the TEA has opened an investigation regarding the alleged misconduct of a teacher, and the district employee whose information is at issue "may have information pertinent to this matter." Upon review, we find the responsive information is subject to the general right of access afforded to the TEA under section 249.14. Although you assert the information at issue is excepted from disclosure under sections 552.102(a) and 552.117 of the Government Code, these sections are general exceptions to disclosure under the Act. Therefore, the TEA's statutory right of access under section 249.14 prevails and none of the information at issue may be withheld under section 552.102(a) or section 552.117. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (specific statutory right of access provisions overcome general exception to disclosure under the Act). Therefore, the district must release the responsive information to the TEA pursuant to section 249.14 of title 19 of the Texas Administrative Code.³ *See* Open Records Decision

²The 79th Texas legislature passed House Bill 1116, which required the transfer of SBEC's administrative functions and services to the TEA, effective September 1, 2005.

³Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the district must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.

No. 525 (1989) (exceptions to disclosure do not apply to information made public by other statutes).

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# 534823

Enc. Submitted documents

c: Requestor
(w/o enclosures)