



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 2, 2014

Mr. Hector Benavidas  
Counsel for the Judson Independent School District  
Walsh, Anderson, Gallegos, Green and Trevino, P.C.  
P.O. Box 460606  
San Antonio, Texas 78246

OR2014-15399

Dear Mr. Benavidas:

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# 534745.

The Judson Independent School District (the "district"), which you represent, received a request for all documents in the central office personnel file for the requestor's client and all other documents concerning the requestor's client's conduct or performance, including all documents connected with the investigation of allegations against her on which her placement on unpaid administrative leave was based. 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.

Initially, we note you have only submitted information relating to the requestor's client's application for employment with the district. We assume, to the extent any information responsive to the remainder of the request existed on the date the district received the request, the district has released it. If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .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. Section 552.101 encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10-12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety (“DPS”) maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov’t Code § 411.083. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Upon review, we find the information you have marked constitutes confidential CHRI. This information must be withheld under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.<sup>1</sup> However, the remaining information you have indicated does not constitute confidential CHRI; thus, the district may not withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code.

We note some of the remaining information is subject to section 552.137 of the Government Code, which excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).<sup>2</sup> *See id.* § 552.137(a)-(c). Upon review, we find the district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

In summary, the district must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The district must release the remaining information.<sup>3</sup>

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<sup>1</sup>We note the requestor may obtain his client’s CHRI from DPS. *See* Gov’t Code § 411.083(b)(3).

<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>We note the requestor has a special right of access to some of the information being released in this instance. Because such information is confidential with respect to the general public, if the district receives another request for this information from a different requestor, then the district should again seek a ruling from this office.

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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 534745

Enc. Submitted documents

c: Requestor  
(w/o enclosures)