



September 10, 1999

Mr. Robert S. Johnson
Chappell, Parmelee, Johnson & Hill, P.C.
1800 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4118

OR99-2525

Dear Mr. Johnson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127671.

The Fort Worth Independent School District (the "district"), which you represent, received a request for the following:

- (1) All suits against the Fort Worth Independent School District relations [sic] to race discrimination in the past five (5) years.
- (2) All class action suits relating to unfair treatment to employed in the past five (5) years.
- (3) A statement of policies or standards relating to teachers in special education with waiver to teach for one year while getting certified.
- (4) A list of vacancies in Technical Education, Vocational Education or Industrial Education that were filed between 1993 and 1996. Please include the schools where vacancies existed.

You claim that you may only have information responsive to the first request and that it is information which is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

With respect to request numbers one through three, you state that the request is "ambiguous" or "unintelligible." You state that you have "no statutory duty to guess at what [the

requestor] wishes to request.” Additionally, you state that to the extent the requestor requests “lists” of information, you do not have such information in the manner requested. Numerous opinions of this office have addressed situations in which a governmental body has received either an “overbroad” written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 at 8-9 (1990) states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982), 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

We note that if a request for information is unclear, a governmental body may ask the requestor to clarify the request. Gov’t Code § 552.222(b); *see also* Open Records Decision Nos. 561 at 8 (1990), 333 (1982).

Chapter 552 of the Government Code does not require a governmental body to prepare information in a form requested by a member of the public. Open Records Decision No. 467 (1987). However, a governmental body has a duty to make a good faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 at 8 (1990). If the district holds information from which the requested information can be obtained, the district must provide that information to the requestor unless it is otherwise excepted from disclosure. In response to the request at issue here, you must make a good faith effort to relate the request to information in the district’s possession and help the requestor to clarify his request by advising him of the types of information available.

You argue that request number one would require the district to perform legal research, which is not required of the district under section 552.227 of the Government Code. In Open Records Decision No. 563 (1990), the requestor sought documents showing the authority of a non-profit corporation to engage in various activities. We ruled as follows:

While couched as requests for documents, these are essentially requests for federal and state laws and regulations governing the activities of the corporation and for a statement of the corporation’s interpretation of these provisions. The [Public Information] Act does not require a governmental body to perform legal research for a requestor nor to

answer general questions.

Id. at 8. In your situation, the requestor is simply requesting a list of lawsuits filed against the district relating to racial discrimination. We do not find that this request would require the district to perform legal research to secure the information.

You state that the district has identified one lawsuit responsive to request number one, and that it should be withheld from disclosure pursuant to section 552.103 of the Government Code. On July 20, 1999, we requested that you provide this office with a copy of the specific information requested or a representative sample of the information if the documents are numerous and repetitive. You did not send us copies of any information as required by section 552.301. Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that was requested.

Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See 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 Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown such a compelling interest to overcome the presumption that the information at issue is public.

With respect to request number two, you state that the district has no lawsuits alleging that its employees have been unfairly treated. As for request number three, you explain that you have no responsive documents. If the district has no such information, chapter 552 of the Government Code does not require a governmental body to make available information which did not exist at the time the request was received. Open Records Decision No. 362 (1983); *see* Open Records Decision No. 452 (1986) (document not within chapter 552's purview if it does not exist when governmental body receives a request for it). Nor is a governmental body required to prepare new information to respond to a request for information. Open Records Decision Nos. 605 (1992), 572 (1990), 416 (1984).

Finally, in response to request number four, you assert that you do not have a list of the job vacancies requested. As we stated above, although the district may not have the information in the requested form of a list, it must make a good faith effort to relate the request for information to information the district holds. Therefore, if the district has information

concerning the job vacancies that the requestor seeks, it must release the information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL\nc

Ref: ID# 128671

cc: Mr. Ronald Walker
P.O. Box 163392
Fort Worth, Texas 76161