



August 30, 2001

Ms. Leticia D. McGowan
School Attorney
Dallas Public Schools
P.O. Box 74
Dallas, Texas 75204-5491

OR2001-3849

Dear Ms. McGowan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151371.

The Dallas Independent School District (the "district") received a request for any and all documents, findings, and conclusions from an investigation of a named district employee, including any and all allegations made against the employee that resulted in his placement on administrative leave. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.131 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first note that some of the submitted records fall within the scope of section 552.022 of the Government Code. Section 552.022 provides in relevant part:

(a) Without limiting the amount or kind of information that is public information under this chapter, *the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:*

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body[.]

Gov't Code § 552.022(a)(1) (emphasis added). The internal investigations conducted by the district and other school districts are thus subject to section 552.022(a)(1). However, you assert that the responsive records that are encompassed by section 552.022(a)(1) are confidential under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We next address this claimed exception from disclosure.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception protects information that is deemed to be confidential under another statute. Chapter 261 of the Family Code governs investigations of child abuse or neglect. Section 261.201 provides in relevant part:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers *used or developed in an investigation* under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a) (emphasis added). An inspection of the submitted information reveals that the district’s police department conducted an investigation. The district’s police department is a law enforcement agency authorized to conduct a chapter 261 investigation. *See* Fam. Code §§ 261.301, .3019, .406. Thus, the information is used or developed in an investigation under chapter 261 of the Family Code. You have not cited any specific rule that the district’s police department has adopted to permit release of such information to the requestor, nor are we aware of any such rule. *See, e.g.,* Open Records Decision No. 440 at 2 (1986). Therefore, we agree that the submitted information, in its entirety, is confidential under section 261.201 of the Family Code, and must be withheld from disclosure under section 552.101 of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.¹

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within

¹Because section 552.101 is dispositive in this case, we do not address your section 552.131 claim.

10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



J. Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 151371

Enc: Submitted documents

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