



February 4, 2002

Dr. Bobby E. Parker, Jr.  
Superintendent of Schools  
Waxahachie I.S.D.  
411 Gibson Street  
Waxahachie, Texas 75165

OR2002-0520

Dear Dr. Parker:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 158186.

The Waxahachie Independent School District (the "district") received a request for information relating to sex education, birth control, and abortion. You ask whether the district must respond to this request under chapter 552 of the Government Code. We have considered your comments and reviewed the communication in question.

Generally, a request for information need not refer to chapter 552 of the Government Code or be addressed to the officer for public information. *See* Open Records Decision Nos. 497 at 3 (1988), 44 at 2 (1974). As a hyper-technical reading of chapter 552 does not effectuate its purpose, a written communication that can reasonably be judged to be a request for public information constitutes a request for information under chapter 552. *Id.* In responding to a request for information under chapter 552, a governmental body is not required to answer factual questions, conduct legal research, or create new information. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). Likewise, chapter 552 does not require a governmental body to take affirmative steps to create or obtain information that is not in its possession, so long as no other individual or entity holds that information on behalf of the governmental body that receives the request for it. *See* Gov't Code § 552.002(a); Open Records Decision Nos. 534 at 2-3 (1989), 518 at 3 (1989). However, a governmental body that receives a request for information must make a good-faith effort to relate the request to information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990).

We conclude that this communication to the district contains a request for information under chapter 552 of the Government Code. Although the district need not prepare answers to the requestor's questions, you indicate that the district has responsive policies. You raise no

exception to the disclosure of the policy information. Therefore, to the extent that the district holds or has access to existing written policies that are responsive to this request, the district must release that information to the requestor.<sup>1</sup> See Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

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.

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 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).

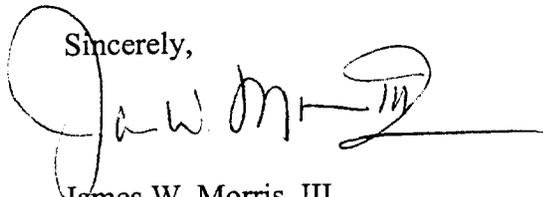
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<sup>1</sup>Chapter 552 of the Government Code does not require a governmental body to release information that did not exist when the request for information was received. See Open Records Decision No. 452 at 3 (1986).

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 Texas Building and Procurement 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,

A handwritten signature in black ink, appearing to read "J W Morris III", written over a horizontal line.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 158186

c: Mr. Edmund J. Zielinski  
Life Dynamics Incorporated  
P.O. Box 2226  
Denton, Texas 76202