



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2005

Ms. Laura C. Rodriguez
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P. O. Box 460606
San Antonio, Texas 78246-0606

OR2005-11371

Dear Ms. Rodriguez:

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# 238363.

The Northside Independent School District (the "district"), which you represent, received a request for the e-mail addresses of the PTA officers for Rawlinson Middle School. You claim that the submitted responsive information is confidential under the Family Educational Rights and Privacy Act of 1974 and excepted from disclosure under section 552.137 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we note that only the marked e-mail addresses in the submitted information are responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release this information in response to this request.

We next address your request for clarification as to whether the requestor must disclose his identification in this instance. Section 552.222 of the Government Code provides the following:

- (a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b) or (c).

(b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. . . .

(c) If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information[.]

Gov't Code § 552.222. Because a special right of access to information exists in some circumstances that requires a requestor to establish proper identification, the only inquiry a governmental body may make of a requestor under the Act is to establish proper identification. *See id.* § 552.222(a); *see, e.g.*, Gov't Code § 552.023 (person has special right of access to information protected from public disclosure by laws intended to protect that person's privacy interests). However, the identity of the requestor is generally not a factor to be considered when a governmental body receives an open record request. *See id.* § 552.223 (requiring uniform treatment of all open records requests). *But see id.* § 552.028 (governmental body not required to accept or comply with request for information from incarcerated individuals or their agents).

In this instance, the district apparently knows the name and e-mail address of the requestor. Although you argue that the district must be able to determine if the requestor has a right of access to the submitted information or if the requestor is an individual whose identity may implicate grounds of protection under the Act, you have not explained, nor can we discern from our review of the submitted information, the reason further identification of the requestor would be necessary in this instance.¹ Furthermore, failure to provide identification under section 552.222 is not grounds for a governmental body to refuse to respond to a request for public information. Accordingly, you may not withhold the submitted information on the basis of section 552.222.

You assert that the information at issue is excepted under 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). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. The e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that a member of the public has affirmatively consented to the release of any e-mail address contained in the

¹You also argue that the identifying information of the requestor "is needed in order to properly notice the requestor of any request by the District to withhold information." However, we note that the district's brief to this office dated November 12, 2005 has been sent to the requestor via e-mail, presumably to comply with section 552.301(d) of the Government Code.

submitted materials. Therefore, the district must withhold the e-mail addresses at issue under section 552.137.²

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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).

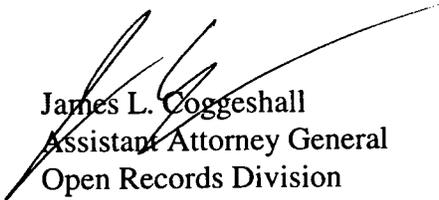
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 Office of the Attorney General at (512) 475-2497.

²As we are able to resolve this under section 552.137, we do not address your other argument for exception of the responsive information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/krl

Ref: ID# 238363

Enc. Submitted documents

c: Mr. Jordan Michaels
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