



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2005

Ms. Christi Worth
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701

OR2005-11723

Dear Ms. Worth:

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# 239624.

The Teacher Retirement System of Texas (the "TRS") received a request for the following information: 1) a TRS 7 form; 2) a copy of the transmittal correspondence used by three specified school districts to submit TRS 7 forms to TRS for individuals that retired during the month of June, 2004, redacted to eliminate information that would identify individuals; 3) for each of the three specified districts, completed TRS 7 forms for any two individuals who retired during 2004; and 4) a TRS 562 form. You inform us that you have released some of the requested information to the requestor. The TRS takes no position with regard to the release of the remaining information. However, you have notified West Independent School District ("West"), an interested third party, of the request for information pursuant to section 552.305 of the Government Code. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). This office has received comments from West. The TRS has submitted the remaining information at issue, the members' participation numbers. We have considered West's comments and reviewed the submitted information.

West informs us that the handwritten participation numbers in the submitted information are used to identify participants. West asserts that the TRS 7 form is excepted from disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure information made confidential by law. However, West has not explained how the TRS 7 form is deemed confidential by law. Furthermore, in the present request, the requestor specifically states that the requested documents may be redacted to eliminate all references to individuals and states that TRS can redact identification numbers. Accordingly, the handwritten participation numbers are not responsive to the request. This ruling does not address the public availability of any information that is not responsive to the request, and the TRS is not required to release such information in response to the request for information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dismissed).

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.

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,



Jaime L. Flores
Assistant Attorney General
Open Records Division

JLF/krl

Ref: ID# 239624

Enc. Submitted documents

c: Mr. Joe Fried
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(w/o enclosures)

Ms. Peggy Kissinger
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(w/o enclosures)