



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 25, 2009

Mr. Robert Russo
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2009-02469

Dear Mr. Russo:

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# 335835.

The Lytle Independent School District (the "district"), which you represent, received a request for the requestor's personnel file, including all "documents placed in [the requestor's] service record or kept on file" under the requestor's name in the district office. You inform this office that the requestor subsequently clarified the request to exclude "anything that would be covered by either the attorney-client privilege or the attorney work product privilege[, as well as] student discipline referrals [that the requestor] prepared or submitted." Accordingly, any such information within the submitted documents is not responsive to the present request for information. This ruling will not address such non-responsive information and the district need not release it in response to this request. You state that some responsive information has been released to the requestor. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 261.201(a) of the Family Code provides as follows:

(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, 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). We note that the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, the submitted information reflects that the matter was referred to the Child Protective Services Division (“CPS”) of the Texas Department of Family and Protective Services and that CPS conducted its own investigation. Upon review of your representations and the information at issue, we find that the submitted records consist of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261; therefore, this information is within the scope of section 261.201(a)(2) of the Family Code. *See id.* §§ 261.001(1) (defining “abuse” for the purposes of chapter 261 of the Family Code). You do not indicate that the district has adopted a rule governing the release of this type of information; therefore, we assume that no such regulation exists. Based on this assumption, we conclude that the submitted information is confidential pursuant to section 261.201 of the Family Code, and the district must withhold it under section 552.101 of the Government Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/jb

Ref: ID# 335835

Enc. Submitted documents

c: Requestor
(w/o enclosures)