



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2009

Mr. Christopher B. Gilbert
Thompson & Horton, L.L.P.
711 Louisiana Street, Suite 2100
Houston, Texas 77002-2746

OR2009-14829

Dear Mr. Gilbert:

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# 358886.

The Houston Independent School District (the "district"), which you represent, received two requests for information concerning the candidates for the district superintendent position. You state that you will release some of the information requested by the first requestor.¹ You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.102, and 552.126 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.² We have also received comments from the requestor. *See* Gov't Code § 552.304 (providing that an interested party may submit comments stating why information should or should not be released).

¹ The district notified a third party, Heidrick and Struggles ("Heidrick") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open records Decision No. 542 (1990). Heidrick responded to the notice, stating that it did not seek to have any of the submitted information withheld on its behalf. Subsequently, the district released Exhibit D, which consists of Heidrick's information, to the first requestor.

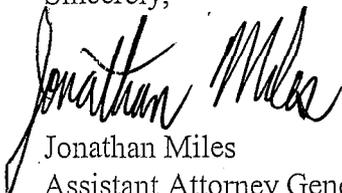
² We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.126 excepts from disclosure the “name of an applicant for the position of superintendent of a public school district . . . except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days” before a vote or final action is taken. *Id.* § 552.126. You explain that as of the date of the request, the district is “still in its preliminary phase,” and that no finalists had been determined or named by the board on the date on which the requests were made. Thus, you assert, and we agree, that the name of an employment candidate for the position of superintendent is excepted from disclosure under section 552.126. Furthermore, this protection from disclosure extends not only to the name of the individual, but also to any information tending to identify the individual. *See* Open Records Decision No. 540 (1990) (interpreting section 552.123 – which, in language similar to section 552.126, protects identities of applicants for chief executive officer of institution of higher education – as applying to identities, rather than just names of applicants). This office has previously held that the type of information that identifies individuals in such cases includes, but is not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* Thus, the district may withhold the information at issue pursuant to section 552.126 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments.

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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 358886

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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