



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2011

Mr. S. Anthony Safi
Mounce, Green, Myers, Safi, Paxon & Galatzan, P.C.
P.O. Box 1977
El Paso, Texas 79950-1977

OR2011-00348

Dear Mr. Safi:

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# 405081.

The El Paso Independent School District (the "district") received a request for 1) documents contained in the requestor's personnel file, 2) electronic communications to and from district employees referencing the requestor, and 3) documents related to allegations of misconduct during a specified time period. You state some of the responsive information is being provided to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

(a) Except as provided by Section 261.203, 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.

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, 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 contains a report of alleged or suspected abuse made to the Child Protective Services Division of the Texas Department of Family and Protective Services (“CPS”). In addition, a portion of the remaining information reveals the identity of an individual reporting alleged or suspected abuse. Therefore, this information, which we have marked, is confidential and must be withheld under section 552.101 in conjunction with 261.201(a)(1) of the Family Code. However, the remaining information does not constitute a report of alleged or suspected abuse or neglect made to CPS, or information used or developed in an investigation by CPS. Thus, the remaining information may not be withheld from disclosure under section 552.101 in conjunction with section 261.201 of the Family Code.

You also assert the remaining information is excepted from disclosure under section 552.135 of the Government Code, which provides the following:

(a) “Informer” means a student or a former student or an employee or former employee of a school district who has furnished a report of another person’s possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer’s name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov’t Code § 552.135. Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of “law,” a school district that seeks to withhold information under the exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not make the initial report are not informants for purposes of section 552.135 of the Government Code. In this instance, you assert all of the remaining information is confidential under section 552.135. Upon review, we find that the district has failed to demonstrate how the remaining information reveals the identity of individuals who reported another person’s possible violation of criminal, civil, or regulatory law and, thus, has not demonstrated the remaining information reveals the identity of an informer for the

purposes of section 552.135. Therefore, the district may not withhold any portion of the remaining information under section 552.135 of the Government Code.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. The remaining information must be released.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/vb

Ref: ID# 405081

Enc. Submitted documents

c: Requestor
(w/o enclosures)