



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2012

Mr. Robb D. Decker
Walsh, Anderson, Gallegos, Green and Trevino, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2012-05209

Dear Mr. Decker:

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# 450383.

The Northside Independent School District (the "district"), which you represent, received a request for (1) copies of changes made to the pay plan as per section 3.7.1 of the strategic plan, (2) the Welling or Werling study, (3) any area wage/compensation studies completed over the last five years, (4) the Texas Association of School Boards ("TASB") survey conducted from 2008-2009, (5) materials derived from the position review process mentioned in the district strategic plan, and (6) the job descriptions of all auxiliary workers. You claim that the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted information.

Initially, we note you have not submitted any information responsive to the portions of the request seeking copies of changes made to the pay plan as per section 3.7.1 of the strategic plan, materials derived from the position review process mentioned in the district strategic plan, or the job descriptions of all auxiliary workers. Although you state the district submitted a representative sample of information, no portion of the submitted representative sample pertains to the above referenced categories of information. Thus, we find the submitted information is not representative of the information sought in these parts of the request. Please be advised this open records letter applies only to the type of information you have submitted for our review. Therefore, this letter ruling does not authorize the withholding of any other requested records to the extent those records contain substantially

different types of information than that submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information is presumed to be public). Thus, to the extent any information responsive to these portions of the request existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your assertion that the Werling study, the TASB survey, and a document created by the district's director of compensation and employment, a representative sample of which you have submitted, are subject to section 552.027 of the Government Code. Section 552.027 provides as follows:

(a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.

(b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

Gov't Code § 552.027. Section 552.027 is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. The legislative history of this provision notes that section 552.027 should exclude from the definition of public information:

books and other materials that are also available as research tools elsewhere to any member of the public. Thus, although public library books are available for public use, the library staff will not be required to do research or make copies of books for members of the public.

Interim Report to the 74th Legislature of the House State Affairs Comm., 74th Leg., R.S., Subcommittee on Open Records Revisions 9 (1994). Therefore, section 552.027 excludes commercially available research material from the definition of "public information." You state, and provide documentation showing the Werling study and the TASB survey are

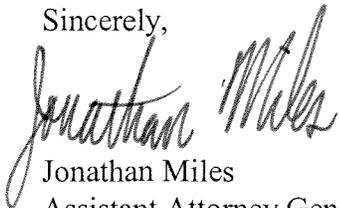
commercially available to the public from Werling Associates, Inc. and the TASB respectively. Accordingly, we find the Werling study and the TASB survey constitute commercially available information that falls within the scope of section 552.027 and need not be released to the requestor. You also assert that the document created by the district's director of compensation and employment contains data copied from these surveys and, thus, should also fall within the scope of section 552.027. However, you have not demonstrated how the document created by the district consists of information in a publication that was purchased or acquired by the district for research purposes. Accordingly, we determine that the document created by the district is not subject to section 552.027. As you raise no exceptions to disclosure for the document created by the district, it must be released.

In summary, the district need not release the Werling study and the TASB survey as they are commercial information subject to section 552.027 of the Government 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 450383

Enc. Submitted documents

c: Requestor
(w/o enclosures)