



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2012

Mr. Craig Radtke
Director of Legal Affairs
Boerne Independent School District
123 West Johns Road
Boerne, Texas 78006

OR2012-08223

Dear Mr. Radtke:

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# 455110.

The Boerne Independent School District (the "district") received a request for a list or database of all district bus accidents from 2007 to 2011, including the name of the driver, the date of the accident, the location of the accident, whether it was preventable, injuries, any discipline taken against the driver, and the number of students aboard. You claim that the submitted information is excepted from disclosure under sections 552.102 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the district seeks to withdraw its present request for an open records decision because the district asserts the requestor's public information request was withdrawn by operation of law for failure to timely respond to a cost estimate for providing requested records. Upon review of a copy of the cost estimate, we find it does not comply with the requirements of section 552.2615 of the Government Code because it did not inform the requestor that he could make a complaint to our office alleging that he has been overcharged. *See* Gov't Code § 552.2615(b). Accordingly, we conclude the requestor's public information request has not been withdrawn by operation of law.

The district also states it did not receive a response to its request for clarification. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990). In this case, as you have submitted information responsive to the request for which you sought clarification and have raised exceptions to disclosure for this information, we will address the applicability of the claimed exceptions to this information.

We note some of the submitted information is not responsive to the instant request because it falls outside of the date range specified in the request. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release non-responsive information in response to the request.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court considered the applicability of section 552.102 and held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.2d 336, 347-48 (Tex. 2010). Upon review, we find no portion of the submitted information is subject to section 552.102(a), and the district may not withhold any of the submitted information on this basis.

Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). You wish to withhold the names of the district bus drivers under section 552.130. This information does not constitute motor vehicle record information for the purposes of section 552.130. Accordingly, the district may not withhold the names of the district bus drivers under section 552.130 of the Government Code. As you raise no other exceptions to disclosure, the submitted 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,

A handwritten signature in cursive script that reads "Kathleen J. Santos".

Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/eb

Ref: ID# 455110

Enc. Submitted documents

c: Requestor
(w/o enclosures)