



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2014

Mr. S. Anthony Safi
Counsel for the El Paso Independent School District
Mounce, Green, Myers, Safi, Paxson & Galatzan
P.O. Box 1977
El Paso, Texas 79999-1977

OR2014-01290

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# 511661 (EPISD ORR#2103.436).

The El Paso Independent School District (the "district"), which you represent, received a request for a named individual's personnel records and the complete investigation file pertaining to a specified incident. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.135 of the Government Code provides the following:

(a) "Informer" means a student or 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.

¹Although you raise section 552.101 of the Government Code in conjunction with section 552.135 of the Government Code, this office has conclude section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

(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 the investigation, but do not make the initial report are not informants for purposes of section 552.135 of the Government Code. You claim the submitted information reveals the identities of informers who reported possible violations of the Educator Code of Ethics, section 247.2 of title 19 of the Texas Administrative Code. Upon review, we find the district must withhold the information we have marked under section 552.135 of the Government Code.² However, we find the district has failed to demonstrate how any of the remaining information reveals the identity of an informer who furnished an initial report of a violation of law for the purposes of section 552.135 of the Government Code. Therefore, none of the remaining information may be withheld on that basis.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information made confidential by other statutes, including section 261.201 of the Family Code. Section 261.201 provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] 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[.]

Fam. Code § 261.201(a)(1); *see id.* §§ 101.003(a) (defining "child" for purposes of chapter 261 of the Family Code as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1)(E) (defining "abuse" for purposes of chapter 261 of the Family Code). Upon review, we find none of the remaining information constitutes a report of alleged or suspected abuse or neglect nor contains the identity of an individual who made a report of alleged or suspected child abuse or neglect. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code.

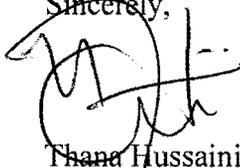
²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

In summary, the district must withhold the information we have marked under section 552.135 of the Government Code. The district must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 511661

Enc. Submitted documents

c: Requestor
(w/o enclosures)