



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 19, 2014

Dr. Cornelio Gonzalez
Executive Director
Region One Education Service Center
1900 West Schunior Street
Edinburg, Texas 78541

OR2014-04584

Dear Dr. Gonzalez:

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# 517226.

The Region One Education Service Center (the "center") received a request for information pertaining to center employees who meet certain guidelines of the Teacher Retirement System of Texas ("TRS").¹ You claim the requested information is excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.³

¹As you did not submit the requestor's written request for information, we take our description from your brief.

²Although you also raise section 552.022 of the Government Code, that provision is not an exception to disclosure. Rather, section 552.022 enumerates categories of information that are not excepted from disclosure unless they are expressly confidential under the Act or other law. *See* Gov't Code § 552.022. You also raise section 552.024 of the Government Code as an exception to disclosure; however, this section is not an exception to public disclosure under the Act. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain personal information relating to the official or employee that is held by the employing governmental body. *See id.* § 552.024. We note section 552.117 of the Government Code is the proper exception to assert.

³We note the center did not submit a copy of the request letter and therefore failed to comply with the requirements of section 552.301(e) of the Government Code. *See id.* § 552.301(e). Nonetheless, sections 552.101, 552.102, and 552.117 are mandatory exceptions that can provide compelling reasons to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the center's claims.

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 825.507 of the Government Code, which provides in relevant part:

(a) Records of a participant and information about the records of a participant that are in the custody of [TRS] or of an administrator, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of [TRS] are confidential and not subject to public disclosure. Because the records and information described by this section are exempt from the public access provisions of Chapter 552 [of the Government Code], [TRS] or an administering firm, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of [TRS], is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

...

(g) In this section, “participant” means a member, former member, retiree, annuitant, beneficiary, or alternate payee of [TRS.]

Id. § 825.507(a), (g). You assert the requested information consists of records of participants or information about the records of participants in TRS. You state the information at issue is in the custody of the center on behalf of and in cooperation with TRS. We note the requestor has not asserted any of the provisions of section 825.507(b) are applicable in this instance, nor provided any information that would allow the center to determine that any of these provisions apply. *See id.* § 825.507(b). Accordingly, we conclude the submitted information is confidential under section 825.507 of the Government Code and must be withheld under section 552.101 of the Government Code.⁴

Finally, you request that this office issue a “previous determination” that would permit the center in the future to withhold from disclosure information pertaining to center employees who are participants in TRS under section 825.507 of the Government Code and must be withheld under section 552.101 of the Government Code without the need of requesting a ruling from us about whether such information can be withheld from disclosure. We decline to issue such a previous determination at this time.⁵

⁴As we make this determination, we do not address the center’s remaining arguments.

⁵We note section 825.507(a) provides a governmental body acting in cooperation with or on behalf of TRS is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general. *See id.* § 825.507(a).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 517226

Enc. Submitted documents

c: Requestor
(w/o enclosures)