



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 16, 2014

Ms. Lynn Rossi Scott
Attorney for the Hurst-Eules-Bedford Independent School District
Bracket & Ellis, P.C.
100 Main Street
Fort Worth, Texas 76102

OR2014-06266

Dear Ms. Scott:

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# 519864.

The Hurst-Eules-Bedford Independent School District (the "district"), which you represent, received a request for e-mails sent using an hebisd.edu e-mail account containing certain terms over a specified period of time.¹ You state you will release some information to the requestor upon receipt of payment. You state you will redact information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.² You further state you will withhold personal e-mail addresses subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684

¹You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

²The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

(2009).³ You claim portions of the submitted information are not subject to the Act. We have considered your argument and reviewed the submitted representative sample of information.⁴

You assert portions of the submitted information are not subject to the Act. The Act is applicable only to “public information.” See Gov’t Code §§ 552.002, .021. Section 552.002(a) defines “public information” as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Id. § 552.002. Thus, virtually all the information in a governmental body’s physical possession constitutes public information and is subject to the Act. *Id.*; see Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You inform us the information you have marked in “Exhibit E reflect[s] individual employees receiving, and in a few cases, forwarding or responding to e-mails that are entirely personal in nature” and were not made by the employees in “their official capacities and do not relate to [d]istrict business.” You

³Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

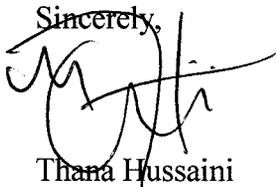
⁴We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

state the district's policy allows employees to use their district e-mail accounts for limited personal use. Based on your representations and our review of the information you have marked, we find this information does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Therefore, we conclude the e-mails you have marked are not subject to the Act and need not be released in response to the present request for information. As you make no other arguments against disclosure, 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.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/dls

Ref: ID# 519864

Enc. Submitted documents

c: Requestor
(w/o enclosures)