



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 28, 2015

Ms. Patricia Guidry
Director of Risk Management
Aldine Independent School District
14910 Aldine-Westfield Road
Houston, Texas 77032-3099

OR2015-10384

Dear Ms. Guidry:

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# 568339.

The Aldine Independent School District (the "district") received a request for the identity of the individual who made an allegation against the requestor's client. You claim the submitted information is excepted from disclosure under sections 552.101, 552.135, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.135 of the Government Code provides as follows:

- (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 or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (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(a)-(b). 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 that exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See* Gov't Code § 552.301(e)(1)(A).

You state the submitted information reveals the identity of an informer who reported possible violations of criminal law. You further state the individual at issue wished to remain anonymous. However you do not inform us, and we are unable to determine, whether the individual is a student or former student or an employee or former employee of the district. Therefore, we must rule conditionally. If the individual at issue is a student or former student or an employee or former employee the district, then the district must withhold the submitted information under section 552.135 of the Government Code. However, if the individual at issue is not a student or former student or an employee or former employee of the district, then the district may not withhold the submitted information under section 552.135. In the event the district may not withhold the submitted information under section 552.135, we will address your remaining arguments against disclosure of the submitted information.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of constitutional privacy, which consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently and (2) an individual’s interest in avoiding disclosure of personal matters. Open Records Decision No. 455 at 4 (1987). The first type protects an individual’s autonomy within “zones of privacy” which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual’s privacy interests and the public’s need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common law doctrine of privacy; the information must concern the “most intimate aspects of human affairs.” *Id.* at 5 (citing *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)). After review of the submitted information, we find you have failed to demonstrate how the information at issue falls within the zones of privacy or implicates an individual’s privacy interests for purposes of constitutional privacy. Therefore, the district may not withhold any of the submitted information under section 552.101 of the Government Code on the basis of constitutional privacy.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

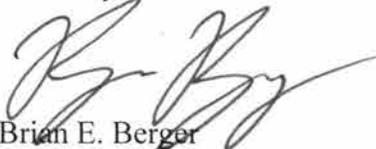
Gov't Code § 552.152. Upon review, we find you have not demonstrated release of the submitted information would subject an employee or officer to a substantial risk of physical harm. Accordingly, the district may not withhold the submitted information under section 552.152 of the Government Code.

In summary, if the individual at issue is a student or former student or an employee or former employee of a school district, then the district must withhold the submitted information under section 552.135 of the Government Code. However, if the individual at issue is not a student or former student or an employee or former employee of a school district, then 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.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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 568339

Enc. Submitted documents

c: Requestor
(w/o enclosures)