



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2015

Ms. Elizabeth G. Neally
Counsel for the Harlingen Consolidated Independent School District
Walsh, Gallegos, Trevino, Russo & Kyle, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2015-21206

Dear Ms. Neally:

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# 582634.

The Harlingen Consolidated Independent School District (the "district"), which you represent, received a request for all employment agreements executed by the district with certain specified law firms during a specified time period, as well as all communications between two named district officials and the specified law firms for services pertaining to specified insurance claims over specified time periods. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

You acknowledge the district has not complied with the procedural requirements of section 552.301 of the Governmental Code in requesting this ruling. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal

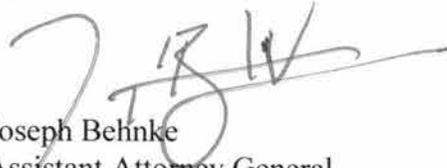
¹Although you raise section 552.101 of the Government Code in conjunction with section 552.107 of the Government Code and Texas Rule of Evidence 503, this office has concluded section 552.101 does not encompass discovery privileges or other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Moreover, although you also raise Texas Rule of Evidence 503, we note the proper exception to raise when asserting the attorney-client privilege for information not subject to section 552.022 of the Government Code is section 552.107 of the Government Code. *See* ORD 676 at 1-2.

presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Although you claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code, these are discretionary exceptions that protect a governmental body's interests and do not provide compelling reasons to withhold information. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 676 at 12 (claim of attorney-client privilege under section 552.107 does not provide compelling reason to withhold information under section 552.302 if it does not implicate third-party rights), 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the district may not withhold any portion of the submitted information under section 552.103 or section 552.107 of the Government Code. Although you also generally assert third party interests may be at stake, you have not made any arguments on behalf of any third party, nor have we received arguments from any interested third-party. *See* Gov't Code § 552.305; ORD 630. As you raise no further exceptions to disclosure, the district must release the submitted 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 582634

Enc. Submitted documents

c: Requestor
(w/o enclosures)