



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 17, 2015

Ms. Cynthia Rincón
General Counsel
Department of Legal Services
Fort Bend Independent School District
16431 Lexington Boulevard
Sugar Land, Texas 77479

OR2015-26601

Dear Ms. Rincón:

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# 591018 (ORR 2015-16-257).

The Fort Bend Independent School District (the "district") received a request for information pertaining to a named individual from an investigator with the Texas Education Agency ("TEA"). We understand the district is releasing some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.107 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor is an investigator with the TEA and states he is seeking the requested information under the authority provided to the State Board for Educator

¹ Although you also raise section 552.101 of the Government Code in conjunction with Texas Rule of Evidence 503, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Thus, we do not address your argument under section 552.101 of the Government Code. Further, although you raise Texas Rule of Evidence 503, we note the proper exception to raise when asserting the attorney-client privilege in this instance is section 552.107 of the Government Code. *See* ORD 676 at 1-2.

Certification (“SBEC”) by section 249.14 of title 19 of the Texas Administrative Code. Chapter 249 of title 19 of the Texas Administrative Code governs disciplinary proceedings, sanctions, and contested cases involving SBEC. *See* 19 T.A.C. § 249.4. Section 249.14 provides in relevant part:

(a) [TEA] staff may obtain and investigate information concerning alleged improper conduct by an educator, applicant, examinee, or other person subject to this chapter that would warrant the [SBEC] denying relief to or taking disciplinary action against the person or certificate.

...

(c) TEA staff may also obtain and act on other information providing grounds for investigation and possible action under this chapter.

19 T.A.C. § 249.14(a), (c). The requestor states the TEA has opened an investigation regarding the alleged misconduct or criminal history information of the named employee, and he requires the requested records in order to conduct a full and complete investigation. The investigator also states the alleged misconduct or criminal history information could warrant disciplinary action relating to the teacher’s educator certification. Thus, we find the information at issue is subject to the general right of access afforded to the TEA under section 249.14.

We note a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision No. 451 at 4 (1986) (specific access provision prevails over generally applicable exception to public disclosure). Although you seek to withhold the submitted information under section 552.107(1) of the Government Code, this section is a general exception to disclosure under the Act. Therefore, the TEA’s statutory right of access under section 249.14 prevails, and none of the information at issue may be withheld under section 552.107. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (specific statutory right of access provisions overcome general exception to disclosure under the Act). Therefore, the district must release the submitted information to the TEA pursuant to section 249.14 of title 19 of the Texas Administrative Code.²

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.

²Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the district must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/akg

Ref: ID# 591018

Enc. Submitted documents

c: Requestor
(w/o enclosures)