



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 21, 2016

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

OR2016-01517

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# 594867.

The Harlingen Consolidated Independent School District (the "district"), which you represent, received a request for all information ordered released by our office in Open Records Letter No. 2015-21206 (2015). The district claims the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code.¹ We have considered the exceptions the district claims and reviewed the submitted information.

The district acknowledges the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-21206. In Open Records Letter No. 2015-21206, we determined, because the district failed to comply with the procedural requirements of section 552.301 of the

¹Although the district raises 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 the district also raises 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.

Governmental Code in requesting that ruling, the district must release the information at issue. The district again seeks to withhold the information at issue under sections 552.103 and 552.107 of the Government Code. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the district may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. Sections 552.103 and 552.107 do not prohibit the release of information or make information confidential. *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 10-11 (2002) (attorney-client privilege under section 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the district may not now withhold any of this information under section 552.103 or section 552.107. As no other exceptions to disclosure are raised for the submitted information, the district must release it.

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 594867

Enc. Submitted documents

c: Requestor
(w/o enclosures)