



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 19, 2016

Ms. Lauren Wood
Counsel for Plano Independent School District
Abernathy Roeder Boyd & Hullett P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2016-08825

Dear Ms. Wood:

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# 606473 (District ID Number: 2016-012).

The Plano Independent School District (the "district"), which you represent, received a request for two settlement agreements pertaining to two named individuals. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you provide documentation showing you have notified an individual of the right to submit comments to this office why some of the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted argument and reviewed the submitted information.

The district asserts the submitted settlement agreements are excepted from disclosure because they are subject to confidentiality clauses. We note information is not confidential under the Act simply because the party submitting the information anticipates or requests that it be kept confidential. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot, through an agreement or contract, overrule or repeal provisions of the Act. See Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 541 at 3 (1990) ("[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract."), 203 at 1 (1978) (mere expectation of confidentiality by person supplying information does not

¹As of the date of this letter, this office has not received comments from any third party explaining why any of the submitted information should not be released.

satisfy requirements of statutory predecessor to section 552.110). Consequently, unless the settlement agreements fall within an exception to disclosure, they must be released, notwithstanding any expectations or agreements specifying otherwise.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d at 685. To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. However, the public generally has a legitimate interest in information that relates to public employment and public employees. See Open Records Decision Nos. 542 at 5 (1990), 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 444 at 5-6 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation or public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). Upon review, we find the district has failed to demonstrate the submitted information is highly intimate or embarrassing and of no legitimate public interest. Thus, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy. As no other exceptions to disclosure have been raised, 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,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/bw

Ref: ID# 606473

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)