



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2016

Mr. Stephen Trautmann, Jr.
Counsel for the Clint Independent School District
J. Cruz & Associates, LLC
216 West Village Boulevard, Suite 202
Laredo, Texas 78041

OR2016-15739

Dear Mr. Trautmann, Jr:

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# 618167.

The Clint Independent School District (the "district"), which you represent, received a request for the personnel file of the requestor's client and all documents related to any investigation of misconduct or sent to the Texas Education Agency or the State Board for Educator Certification pertaining to the requestor's client. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have only submitted documents related to investigations of the requestor's client to this office for our review. We assume, to the extent any remaining requested information existed on the date the district received the request, the district has released it. If the district has not released any such information, it must do so at this time. *See Gov't Code §§ 552.006, .301, .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).*

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." Gov't Code § 552.101. Section 552.101 encompasses section 261.201 of the Family Code, which provides, in part, the following:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see id.* §§ 101.003(a) (defining “child” for purposes of chapter 261), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). The district claims the submitted information is confidential under section 261.201. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, upon review, we find the information we have marked consists of information used or developed in an investigation of alleged or suspected child abuse or neglect by the Texas Department of Family Protective Services (“DFPS”) and is within the scope of section 261.201(a)(2). Therefore, the district must withhold this information under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. Further, we find portions of the remaining information, which we have marked, consist of the identifying information of a person who reported alleged or suspected child abuse or neglect to DFPS. This information is within the scope of section 261.201(a)(1) and therefore, the district must withhold it under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. However, the remaining information does not consist of a report of alleged or suspected child abuse or neglect made under chapter 261. Further, you do not explain, and the remaining information does not reflect, that it consists of files, reports, records, communications, audio tapes, video tapes, or working papers used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Therefore, the remaining information is not confidential under section 261.201 and may not be withheld on that basis under section 552.101. As no other exceptions to disclosure have been raised, the remaining information must be released.¹

¹We note the requestor has a right of access beyond that of the general public to some of the information being released. *See Gov’t Code § 552.023(a)* (person or person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person’s privacy interests); *Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself).

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,

A handwritten signature in black ink, appearing to read "Cole Hutchison", with a long horizontal flourish extending to the right.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 618167

Enc. Submitted documents

c: Requestor
(w/o enclosures)