



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 16, 2016

Ms. Paige C. Kyle
Counsel for the Northside Independent School District
Walsh, Gallegos, Treviño, Russo & Kyle, P.C.
100 Northeast Loop 410, Suite 900
San Antonio, Texas 78216

OR2016-21033

Dear Ms. Kyle:

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# 627105.

The Northside Independent School District (the "district"), which you represent, received a request for all reports of teacher misconduct made by the district's superintendent to the State Board of Educator Certification over a specified time period. You state the district will withhold information under section 552.147 of the Government Code.¹ 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, you state the requestor specifically excluded dates of birth and personal mailing addresses of employees. Accordingly, this information is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release that information in response to the request.

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting an attorney general decision under the Act. *See* Gov't Code § 552.147(b).

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 chapter 411 of the Government Code, which pertains to criminal history record information (“CHRI”). Chapter 411 authorizes the Texas Department of Public Safety (the “DPS”) to compile and maintain CHRI from law enforcement agencies throughout the state and to provide access to authorized persons to federal criminal history records. *See id.* §§ 411.042, .087. CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *Id.* § 411.082(2).

Section 411.0845 of the Government Code provides, in relevant part:

(a) The [DPS] shall establish an electronic clearinghouse and subscription service to provide [CHRI] to a particular person entitled to receive [CHRI] and updates to a particular record to which the person has subscribed under this subchapter.

(b) On receiving a request for [CHRI] from a person entitled to such information under this subchapter, the [DPS] shall provide through the electronic clearinghouse:

(1) the [CHRI] reported to the [DPS] or the Federal Bureau of Investigation relating to the individual who is the subject of the request; or

(2) a statement that the individual who is the subject of the request does not have any [CHRI] reported to the [DPS] or the Federal Bureau of Investigation.

...

(d) The [DPS] shall ensure that the information described by Subsection (b) is provided only to a person otherwise entitled to obtain [CHRI] under this subchapter. Information collected under this section is confidential and is not subject to disclosure under [the Act].

Id. § 411.0845(a)-(b), (d). Section 411.097(b) of the Government Code provides in part that “[a] school district . . . is entitled to obtain from the [DPS CHRI] maintained by the [DPS] that the district . . . is required or authorized to obtain under Subchapter C, Chapter 22, Education Code, that relates to a[n] . . . employee of the district[.]” *Id.* § 411.097(b). Pursuant to section 22.083(a-1) of the Education Code, a school district is authorized to obtain CHRI from the DPS’s electronic clearinghouse. *See* Educ. Code § 22.083(a-1)(1).

Section 22.08391(d) of the Education Code states that any CHRI received by a school district is subject to section 411.097(d) of the Government Code. *Id.* § 22.08391(d). Section 411.097(d) provides in relevant part:

(d) [CHRI] obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1) may not be released to any person except:

(A) the individual who is the subject of the information;

(B) the Texas Education Agency;

(C) the State Board for Educator Certification;

(D) the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order[.]

Gov't Code § 411.097(d)(1); *see also id.* § 411.084(c) (agency may not confirm the existence or nonexistence of CHRI to any person who is not eligible to receive the information). You state some of the submitted information consists of CHRI derived from the DPS criminal history clearinghouse. Upon review, we agree the information we marked is confidential under section 411.0845 of the Government Code. We note the requestor is not an individual authorized to receive information under section 411.097(d)(1). Thus, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.0845 of the Government Code. However, we find you have not demonstrated any of the remaining information constitutes CHRI that is confidential under chapter 411 of the Government Code. Therefore, the district may not withhold any of the remaining responsive information under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code.

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 'J. Behnke', with a stylized flourish extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 627105

Enc. Submitted documents

c: Requestor
(w/o enclosures)