



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2015

Mr. William Christian
Counsel for the Del Mar College District
Graves, Dougherty, Hearon & Moody, P.C.
P.O. Box 98
Austin, Texas 78767

OR2015-19715

Dear Mr. Christian:

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# 579865 (DMC 0015-0039, 0015-0040, and 0015-0041).

Del Mar College District (the "college"), which you represent, received three requests for fifteen categories of information pertaining to a letter received by the requestor. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor seeks fifteen categories of information pertaining to the specified letter. However, you have only submitted information responsive to some of the requested categories of information. Although you state you have submitted a representative sample of the requested information, we find the submitted information is not representative of the other types of information to which the requestor seeks access. Please be advised this

¹Although you raise 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 you also raise 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.

open records letter ruling applies to only the types of information you have submitted for our review. This ruling does not authorize the college to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302. Therefore, to the extent information responsive to the other categories of the requests exists and was maintained by the college on the date it received the requests, we assume the college has released it to the requestor. If the college has not released any such information, it must do so at this time. *Id.* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Next, we note the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2015-08385 (2015) and 2015-18123 (2015). In Open Records Letter No. 2015-08385, we determined the college may withhold certain information under section 552.107(1) of the Government Code and must release the remaining information. In response to Open Records Letter No. 2015-08385, the college filed a lawsuit against our office for some of the information at issue. *See Del Mar College Dist. v. Attorney Gen. of Tex.*, Cause No. D-1-GN-15-002127. Accordingly, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public. In Open Records Letter No. 2015-18123, we ruled, in part, the college may withhold the information at issue under section 552.107(1) of the Government Code. As to the remaining information in Open Records Letter No. 2015-08385 that is not subject to litigation and the information at issue in Open Records Letter No. 2015-18123, we have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, we conclude the college may rely on Open Records Letter Nos. 2015-08385 and 2015-18123 as previous determinations and withhold or release the identical information in accordance with those rulings.² *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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/>

²As we are able to make this determination, we need not address your arguments against disclosure of this information.

[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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 579865

Enc. Submitted documents

c: Requestor
(w/o enclosures)