



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 15, 2016

Ms. Sylvia Hardman-Dingle
General Counsel
Texas Department of Assistive and Rehabilitative Services
4800 North Lamar Boulevard, Suite 300, MC-1419
Austin, Texas 78756

OR2016-01246

Dear Ms. Hardman-Dingle:

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# 594648 (PIA Req. No. 2016-10/21-1).

The Texas Department of Assistive and Rehabilitation Services (the "DARS") received a request for specific information from a specified advisory commission report. You state you have released some information to the requestor. 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 representative sample of information.¹

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. This section encompasses information protected by other statutes. The purpose of chapter 111 of the Human Resources Code is to provide rehabilitation and related services to eligible individuals with disabilities so they may prepare for and engage in a

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

gainful occupation or achieve maximum personal independence. *See* Hum. Res. Code § 111.001. Section 111.018(b) of the Human Resources Code reads as follows:

In carrying out his or her duties under this chapter and Subchapter F, Chapter 117, the commissioner [of DARS] shall, with the approval of the executive commission, implement policies addressing . . . the protection of records and confidential information . . . and other regulations relating to this chapter or Subchapter F, Chapter 117, as necessary to carry out the purposes of this chapter and Subchapter F, Chapter 117.²

Id. § 111.018(b). Under the authority of section 111.018(b), DARS promulgated section 101.809 of title 40 of the Texas Administrative Code, which reads as follows:

(a) Consumer records.

(1) All personal information available to DARS employees as they administer rehabilitation services programs, including names, addresses, and records of consumer evaluations, is confidential.

(2) DARS may use such information and records only for purposes directly connected with administering the rehabilitation programs.

(3) DARS may directly or indirectly disclose information only in administering the rehabilitation programs, except with the consumer's written consent, in compliance with a court order, or in accordance with a federal or state law or regulation. DARS may not share information containing identifiable personal information with advisory or other bodies that do not have official responsibilities for administration of the programs.

(4) Upon a consumer's request, DARS releases information to a consumer or, as appropriate, his parent, guardian, or other representative. If, in the opinion of the counselor, release to the consumer of a particular document in the consumer case file will have a harmful effect on the consumer, the consumer will be notified that there is information in the case file that can be released only to an appropriate representative designated in writing by the consumer.

(5) All consumer information is the property of DARS.

²The 78th Legislature transferred all powers, duties, functions, programs, and activities of the former Texas Rehabilitation Commission to DARS effective March 1, 2004. *See* Act of June 1, 2003, 78th Leg., R.S., ch. 198, §§ 1.01, 1.21, 1.26, 2003 Tex. Gen. Laws 611, 612, 641.

(b) Other records.

(1) Release of consumer records must be made in accordance with federal law and regulations.

(2) DARS may provide to and receive from any state agency other nonconfidential information for the purpose of increasing and enhancing services to consumers and improving agency operations.

40 T.A.C. § 101.809; *see also* 29 U.S.C. § 721(a)(10)(F) (discussing confidentiality of identities of applicants and eligible individuals under federal Rehabilitation Act of 1973 and its amendments, 29 U.S.C. §§ 701-751); 34 C.F.R. § 361.38(a)(1) (same). You represent the information you have marked consists of personal information pertaining to a consumer of a rehabilitation services program. *See* 40 T.A.C. § 101.809(a)(1). We note the requestor has not provided a release from the consumer whose information is at issue, established he will use this information in a vocational rehabilitation program, or demonstrated any other exceptions allowing disclosure apply. Therefore, we agree DARS must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 111.018(b) of the Human Resources Code and section 101.809 of title 40 of the Texas Administrative Code. DARS must release the remaining 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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 594648

Enc. Submitted documents

c: Requestor
(w/o enclosures)