



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 2, 2016

Ms. Marney Collins Sims
General Counsel
Cypress-Fairbanks Independent School District
P.O. Box 692003
Houston, Texas 77269-2003

OR2016-26708

Dear Ms. Sims:

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# 636210.

The Cypress-Fairbanks Independent School District (the "district") received a request for communications between specified individuals pertaining to a specified topic.¹ You claim the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the present request because it was created after the date of the present request. This ruling does not address the public availability of the non-responsive information, which we have marked, and the district need not release it in response to this request.

Next, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedural obligations that a governmental body must follow in

¹As you have not submitted a copy of the request for information for our review, we take our description from your brief to our office.

asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(A)-(D). You inform us the district received the request for information on September 12, 2016. However, as of the date of this letter, you have not submitted to this office a copy of the written request for information. Accordingly, we conclude the district failed to comply with the requirements of section 552.301.

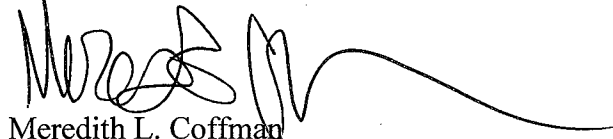
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a governmental body may demonstrate a compelling reason to withhold information by showing that the information is made confidential by another source of law or affects third party interests. *See* ORD 630. Although the district claims sections 552.107 and 552.111 of the Government Code for the submitted information, these exceptions are discretionary in nature and do not make information confidential under the Act. *See* Open Records Decision Nos. 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 470 at 7 (1987) (statutory predecessor to section 552.111 subject to waiver). Accordingly, no portion of the submitted responsive information may be withheld under section 552.107 or 552.111 of the Government Code. As you raise no other exceptions against disclosure, the district must release the submitted responsive 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 636210

Enc. Submitted documents

c: Requestor
(w/o enclosures)