



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 26, 2017

Ms. Amanda K. Davis
Associate General Counsel
Dallas County Schools
612 North Zang Boulevard
Dallas, Texas 75208

OR2017-01833

Dear Ms. Davis:

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# 643036 (DCS Ref. No. W000966-101116).

Dallas County Schools ("DCS") received a request for the personnel files of named DCS employees. You claim the requested information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.110, 552.114, 552.115, 552.117, 552.122, 552.130, 552.135, 552.136, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim.

We must address DCS's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e) of the Government Code, a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated 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. *See Gov't Code § 552.301(e)*. You state DCS received the instant request on October 11, 2016. You further state, and provide

documentation showing, on October 25, 2016, DCS provided the requestor with a cost estimate and a request for a deposit. *See id.* §§ 552.2615(a), .263(a). You also state the requestor accepted the cost estimate on October 26, 2016. Thus, October 26, 2016, is the date on which DCS is deemed to have received the request. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that the governmental body receives deposit or bond). Further, DCS does not inform us it was closed for business on any of the days at issue. Accordingly, the ten-business-day deadline for requesting a ruling from this office and notifying the requestor pursuant to section 552.301(d) was November 9, 2016, and the fifteen-business-day deadline was November 16, 2016. However, as of the date of this letter, you have not submitted arguments explaining why the stated exceptions apply or a copy or representative sample of the specific information requested. Consequently, we find DCS failed to comply with the requirements of section 552.301.

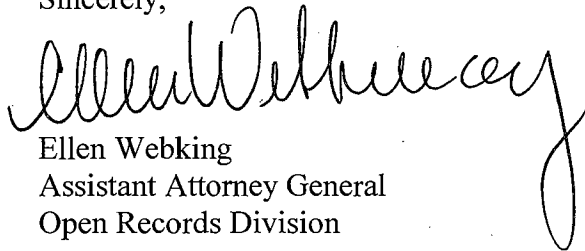
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information 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). Because you failed to comply with the requirements of the Act, you have waived all of your claimed discretionary exceptions to disclosure. *See* Open Records Decision No. 665 at 2 n.5 (2000) (untimely request for decision results in waiver of discretionary exceptions). Although you raise mandatory exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure or confidential by law. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code. If you believe the information is confidential and may not be lawfully released, you must challenge this ruling in court pursuant to section 552.324 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 cursive script, appearing to read "Ellen Webking". The signature is written in black ink and is positioned above the typed name and title.

Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 643036

c: Requestor