



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 24, 2017

Ms. Karla Schultz  
Counsel for Pflugerville Independent School District  
Walsh Gallegos Trevino Russo & Kyle, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2017-11299

Dear Ms. Schultz:

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# 659284.

The Pflugerville Independent School District (the “district”), which you represent, received a request for e-mails sent to or from a named individual during a specified time period that include two specified terms.<sup>1</sup> The district states it has released some information to the requestor. The district claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district claims and reviewed the submitted information.

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. As part of the Texas Homeland Security Act (the “HSA”), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make certain

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<sup>1</sup>We note the district asked for and received clarification regarding this request. See Gov’t Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

information related to terrorism confidential. Section 418.177 of the Government Code provides as follows:

Information is confidential if the information

(1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. *See generally id.* § 421.001 (defining critical infrastructure to include “all public or private assets, systems, and functions vital to the security, governance, public health and safety, and functions vital to the state or the nation”). The fact that information may pertain to public or private infrastructure or may generally be related to emergency preparedness does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Moreover, the mere recitation of a statute’s key terms is not sufficient to demonstrate the applicability of the claimed provision. As with any exception to disclosure, a claim under the HSA must be accompanied by an adequate explanation of how the responsive records fall within the scope of the claimed provisions. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted information pertains to a campus intruder assessment audit and “describe[s] potential security vulnerabilities discovered during the audit.” You explain the district “uses such information to evaluate potential risks of persons and property to criminal and other acts, including acts of terrorism.” You argue release of the information at issue “would interfere with and weaken the [d]istrict’s ability to effectively protect its campuses and the students and staff therein.” Upon review, we find the information we marked was collected, assembled, or maintained by a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity and relates to an assessment of the risk or vulnerability of persons and property to an act of terrorism or related criminal activity. Accordingly, the district must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 418.177 of the Government Code.<sup>2</sup> As you raise no further exceptions, the remaining information must be released.


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<sup>2</sup>As our ruling is dispositive, we need not address the district’s remaining argument against disclosure of this 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](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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/sb

Ref: ID# 659284

Enc. Submitted documents

c: Requestor  
(w/o enclosures)