



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2017

Ms. Lindsey Aston
General Counsel
Office of the Secretary of State
P.O. Box 12697
Austin, Texas 78711-2060

OR2017-15780

Dear Ms. Aston:

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# 668895.

The Office of the Secretary of State (the "secretary's office") received a request for all election complaint documents and referrals to the Office of the Attorney General (the "OAG") relating to a specified school district. You state the secretary's office will redact personal e-mail addresses of members of the public under section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state some of the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2017-10298 (2017). In that ruling, we determined, in relevant part, the secretary's office must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election Code. We have no indication the law, facts, or

¹We note Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

circumstances on which the prior ruling was based have changed. Thus, the secretary's office must continue to rely on Open Records Letter No. 2017-10298 as a previous determination and withhold the information at issue in accordance with that ruling. 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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will consider your arguments for the submitted information not subject to the previous ruling.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses section 31.006 of the Election Code. Section 31.006 of the Election Code provides the following:

(a) If, after receiving a complaint alleging criminal conduct in connection with an election, the [secretary's office] determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the secretary shall promptly refer the complaint to the [OAG]. The secretary shall deliver to the [OAG] all pertinent documents in the secretary's possession.

(b) The documents submitted under Subsection (a) are not considered public information until:

(1) the [secretary's office] makes a determination that the complaint received does not warrant an investigation; or

(2) if referred to the [OAG], the [OAG] has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

Elec. Code § 31.006. We understand the remaining information was delivered to the OAG pursuant to section 31.006(a). You inform us this information is either still under investigation with the OAG or still being reviewed by the secretary's office. Based on your representations and our review, we agree the information at issue is not considered public information under section 31.006(b). Accordingly, the secretary's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election Code.²

²As our ruling is dispositive, we need not address the remaining argument against disclosure.

In summary, the secretary's office must continue to rely on Open Records Letter No. 2017-10298 as a previous determination and withhold the information at issue in accordance with that ruling. The secretary's office must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 668895

Enc. Submitted documents

c: Requestor
(w/o enclosures)