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ATTORNEY GENERAL OF TEXAS

July 19, 2017

Ms. Jennifer A. Powell
Counsel for Midland College
Eichelbaum Wardell Hansen Powell & Mehl, P.C.
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2017-16143

Dear Ms. Powell:

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# 666506.

Midland College (the "college"), which you represent, received a request for information pertaining to the college's baseball and softball programs, including specified salaries, and the college's athletic department and facilities budgets. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

...

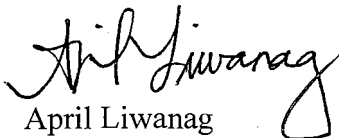
(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(2), (3), (5). The submitted information contains the names, salaries, and titles of the college's employees subject to subsection 552.022(a)(2); information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by the college subject to subsection 552.022(a)(3); and information used to estimate the need for or expenditure of public funds or taxes by the college subject to subsection 552.022(a)(5). The college must release this information pursuant to subsections 552.022(a)(2), 552.022(a)(3), and 552.022(a)(5), unless it is made confidential under the Act or other law. *See id.* Although the college raises section 552.103 of the Government Code for this information, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); ORDs 665 at 2 n.5 (discretionary exceptions generally), 663 at 5 (waiver of discretionary exceptions). Therefore, the college may not withhold the information subject to subsections 552.022(a)(2), 552.022(a)(3), and 552.022(a)(5) of the Government Code under section 552.103 of the Government Code. As no other exceptions to disclosure have been raised for this information, the college must release the submitted information pursuant to section 552.022 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,



April Liwanag
Attorney
Open Records Division

AML/eb

Ref: ID# 666506

c: Requestor