



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 29, 2017

Ms. Monica L. Perez  
Counsel for the El Paso Independent School District  
Mounce, Green, Myers, Safi, Paxson & Galatzan, P.C.  
P.O. Box 1977  
El Paso, Texas 79999-1977

OR2017-19787

Dear Ms. Perez:

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# 673425 (EPISD ORR No. W000338-060817).

The El Paso Independent School District (the "district"), which you represent, received a request for information related to a specified investigation pertaining to the requestor. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information is not responsive to the present request because it does not pertain to the specified investigation requested by the requestor. 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 note the submitted responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

---

<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted responsive information pertains to a completed investigation that is subject to section 552.022(a)(1). The district must release the submitted responsive information pursuant to subsection 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or expressly made confidential under the Act or other law. Although you raise section 552.103 of the Government Code for the submitted responsive information, this section is a discretionary exception to disclosure 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); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, none of the responsive information may be withheld under section 552.103. However, section 552.135 of the Government Code makes information confidential under the Act. Therefore, we will consider the applicability of section 552.135 for the submitted responsive information.

Section 552.135 of the Government Code provides the following:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135. Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under the exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of the investigation, but do not report a violation of law are not informants for purposes of section 552.135 of the Government Code. We note section 552.135 protects an informer's identity, but it does not generally encompass protection for witnesses or witness statements.

You claim the responsive information reveals the identities of informers who reported possible violations of criminal, civil, or regulatory law to the district. However, we find you have not demonstrated the responsive information identifies an informer for the purposes of

section 552.135. Therefore, we find the district may not withhold any portion of the responsive information under section 552.135 of the Government Code. As you raise no other arguments against disclosure of the responsive information, the district must release the responsive information.<sup>2</sup>

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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/som

Ref: ID# 673425

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>2</sup>We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the district must again seek a decision from this office if it receives another request for the same information from another requestor.