



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 5, 2017

Mr. John J. Janssen  
Counsel for Kirbyville Consolidated Independent School District  
Powell & Leon, L.L.P.  
115 Wild Basin Road, Suite 106  
Austin, Texas 78746

OR2017-20169

Dear Mr. Janssen:

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# 674187.

The Kirbyville Consolidated Independent School District (the "district"), which you represent, received a request for information pertaining to a safety audit or survey administered to district staff during a specified time and communications sent amongst district staff and a named individual during a specified time.<sup>1</sup> You state you have no information responsive to a portion of the request.<sup>2</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have

---

<sup>1</sup>You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *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 overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

considered the exception you claim and reviewed the submitted representative sample of information.<sup>3</sup>

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. Section 552.101 encompasses information protected by other statutes, such as section 37.108 of the Education Code, which provides, in part:

(b) At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district’s facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.

...

(c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under [the Act].

Educ. Code § 37.108(b), (c-1). You inform us the submitted information was developed, collected, or produced during a safety and security audit conducted under section 37.108(b). *See id.* § 37.108(b). You state none of the exceptions in subsection (c-2) are applicable to the information at issue. *See id.* § 37.108(c-2) (listing types of documents relating to district’s multihazard emergency operations plan that are subject to disclosure). Based on your representations and our review, we conclude the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 37.108(c-1) of the Education 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](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

---

<sup>3</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

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 black ink, appearing to read 'Meagan J. Conway', with a large, stylized flourish at the end.

Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MC/sb

Ref: ID# 674187

Enc. Submitted documents

c: Requestor  
(w/o enclosures)