



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 20, 2017

Ms. Leticia D. McGowan
Assistant General Counsel
Dallas Independent School District
9400 North Central Expressway, Suite 614
Dallas, Texas 75231

OR2017-24048

Dear Ms. McGowan:

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# 681355 (DISD ORR# 16440).

The Dallas Independent School District (the "district") received a request for information pertaining to a specified investigation. The district states it will release some information to the requestor. The district claims the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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 261.201 of the Family Code, which provides, in part, the following:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see id.* §§ 101.003(a) (defining “child” for purposes of chapter 261), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). The district claims the submitted information is confidential under section 261.201. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). The district states the information at issue was obtained from the Dallas Police Department (“DPD”), the Texas Department of Family and Protective Services (“DFPS”), or the district’s police department (the “department”). The district also states it has an employee on staff who is shared with DFPS to receive and investigate child abuse claims. Upon review, we find the submitted information was not obtained from DPD, DFPS, or the department, but instead relates to an administrative investigation by the district. We are unable to determine the age of the victim listed in the information at issue and whether the submitted information was produced to DPD, DFPS, or the department. Accordingly, we must rule in the alternative. To the extent the victim listed in the submitted information was under eighteen years of age at the time of the incident in question and the submitted information was produced to DPD, DFPS, or the department, we find this information consists of information used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 and must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code.¹ If the victim listed in the submitted information was eighteen years of age or older at the time of the incident in question or the submitted information was not produced to DPD, DFPS, or the department, then this information is not subject to chapter 261 of the Family Code. Therefore, in this instance, the district may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code.

Section 552.135 of the Government Code provides, in part, the following:

(a) “Informer” means a student or former student or an employee or former
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.

¹In this instance, our ruling is dispositive and we need not address the district’s remaining argument against disclosure of the submitted information.

(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.

The district claims the remaining information reveals the identity of informers who reported possible violations of criminal laws. Upon review, we find portions of the remaining information identify individuals who reported a possible violation of law for purposes of section 552.135 of the Government Code. Accordingly, the district must withhold the information we have marked under section 552.135 of the Government Code.² However, we find the district has not demonstrated the remaining information identifies an informer for the purposes of section 552.135 of the Government Code. Therefore, we find the district may not withhold the remaining information under section 552.135.

In summary, to the extent the victim listed in the submitted information was under eighteen years of age at the time of the incident in question and the submitted information was produced to DPD, DFPS, or the department, the district must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. If the victim listed in the submitted information was eighteen years of age or older at the time of the incident in question or the submitted information was not produced to DPD, DFPS, or the department, the district must (1) withhold the information we marked under section 552.135 of the Government Code and (2) release the remaining 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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²As our ruling is dispositive, we need not address the district's remaining argument against disclosure of this information.

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 "Gerald A. Arismendez". The signature is fluid and cursive, with the first name "Gerald" and last name "Arismendez" clearly distinguishable.

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/tdw

Ref: ID# 681355

Enc. Submitted documents

c: Requestor
(w/o enclosures)