



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2019

Ms. Susan Tennyson
DFPS Open Records Attorney
Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2019-10626

Dear Ms. Tennyson:

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# 760693 (ORR# R000187-121818).

The Texas Department of Family and Protective Services (the "department") received a request for information pertaining to the termination of a former employee. The department claims the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we must address the procedural obligations of the department under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e). The department states it received the request for information on December 18, 2018, and we understand the department was closed on December 24, December 25, and

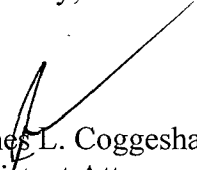
December 26, 2018, and January 1, 2019. The department does not inform us it was closed on any other dates. Thus, the department's ten-business-day deadline under section 552.301(b) was January 7, 2019, and its fifteen-business-day deadline under section 552.301(e) was January 14, 2019. However, the department did not request a ruling from this office or submit the information at issue until February 14, 2019. Therefore, the department failed to comply with the procedural requirements mandated by section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). We find the department has failed to establish a compelling reason to address section 552.103. Therefore, the department may not withhold the submitted information on that ground. Accordingly, the department must release the submitted 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 760693

Enc. Submitted documents

c: Requestor
(w/o enclosures)