



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 10, 2019

Mr. Gary Allmon Grimes
Counsel for the Mesquite Independent School District
Schuerenberg & Grimes, P.C.
120 West Main, Suite 201
Mesquite, Texas 75149

OR2019-15403

Dear Mr. Grimes:

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# 769786.

The Mesquite Independent School District (the "district"), which you represent, received a request for the district's privacy policy pertaining to electronic devices; information pertaining to all programs, software or applications requiring students to enter personal identifiable information that are used as part of the curriculum; and the written disclosure given to parents pertaining to data collection and data retention.¹ You state the district will release some of the requested information. You assert the request for information is not a proper request for public information under the Act. We have considered your arguments.

Initially, we address the district's claim a portion of the instant request was not a proper request for information to the district under the Act because it would require the district to conduct research. We also understand the district to assert responding to this portion of the

¹We note the district asked for and received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *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 over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

request would be burdensome. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request; however, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990).

You state the district will release a list of educational software, programs, and applications that are utilized district-wide as part of student curriculum but there are “a number of other programs, software and apps that may be used by individual school campuses, department, and individual teachers within the [d]istrict.” You assert that to “fully respond to [the] request, the [d]istrict would be required to survey and research all 48 schools in the [d]istrict, every department in the [d]istrict, and all of its approximate 2,600 teachers; and, to generate documents responsive to the request.” We note, however, a governmental body may not refuse to comply with the requirements of the Act on the ground of administrative inconvenience. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 687 (Tex. 1976); *see also* Open Records Decision No. 497 at 4 (1988) (fact that submitting copies for review may be burdensome does not relieve governmental body of its responsibility to do so). In this instance, the portion of request for information at issue does not ask the district to answer questions, perform legal research, or create new information; rather, the request at issue requires the district to locate records the district maintains. We also find the district may not refuse to comply with this portion of request on the basis that doing so would be burdensome. Accordingly, we must address the district’s procedural obligations under section 552.301 of the Government Code.

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. *See* Gov’t Code § 552.301(e). The district received the clarification of the request for information on March 28, 2019. However, as of the date of this letter, the district has not submitted for our review written comments stating the reasons why any exceptions apply or a copy or representative sample of the information requested. Consequently, we find the district failed to comply with section 552.301 of the Government Code.

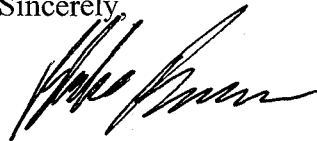
Pursuant to section 552.302 of the Government Code, a governmental body’s failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Because you have not

submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order any responsive information released pursuant to section 552.302 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,

A handwritten signature in black ink, appearing to read "Blake Brennan", written in a cursive style.

Blake Brennan
Attorney
Open Records Division

BB/eb

Ref: ID# 769786

c: Requestor