



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2020

Ms. Trilby Argubright
Counsel for the Rockwall Independent School District
Walsh, Gallegos, Trevino, Russo & Kyle, P.C.
100 North East Loop 410, Suite 900
San Antonio, Texas 78216

OR2020-19464

Dear Ms. Argubright:

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# 839752.

The Rockwall Independent School District (the "district"), which you represent, received a request for information pertaining to a named individual. The district states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

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 the Family and Medical Leave Act (the "FMLA"). *See* 29 U.S.C. §§ 2601 *et seq.* Section 825.500 of chapter V of title 29 of the Code of Federal Regulations identifies the record-keeping requirements for employers that are subject to the FMLA. Section 825.500(g) reads as follows:

[r]ecords and documents relating to medical certifications, recertifications or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Genetic Information Nondiscrimination Act of 2008 (GINA) is applicable, records and documents created for purposes of FMLA containing family medical history or genetic information as defined in GINA shall be maintained in accordance with the confidentiality requirements of Title II of GINA (see 29 C.F.R. 1635.9), which permit such information to be disclosed consistent with the requirements of FMLA. If the [Americans with Disabilities Act (the "ADA"), as amended, is also applicable, such records shall be

maintained in conformance with ADA confidentiality requirements . . . ,
except that:

- (1) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;
- (2) First aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and
- (3) Government officials investigating compliance with FMLA (or other pertinent law) shall be provided relevant information upon request.

29 C.F.R. § 825.500(g). Upon review, we find the submitted information is confidential under section 825.500 of title 29 of the Code of Federal Regulations. Further, we find the release provisions of the FMLA are not applicable to this information. Accordingly, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with the FMLA.¹

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 839752

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we do not address the other arguments of the district to withhold this information.