



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 3, 2020

Ms. Christine Badillo  
Counsel for the Austin Independent School District  
Walsh Gallegos Trevino Russo & Kyle, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2020-27538

Dear Ms. Badillo:

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# 852591.

The Austin Independent School District (the "district"), which you represent, received a request for information related to the district's superintendent search.<sup>1</sup> The district states it is releasing some of the requested information. The district claims the submitted information is excepted from disclosure under section 552.126 of the Government Code. We have considered the exception the district claims and reviewed the submitted representative sample of information.<sup>2</sup> We have also received and considered comments from a representative for the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

---

<sup>1</sup> The district states it 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> 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.

The district claims the submitted information is excepted from disclosure under section 552.126 of the Government Code. Section 552.126 excepts from disclosure the “name of an applicant for the position of superintendent of a public school district . . . except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days” before a vote or final action is taken. Gov’t Code § 552.126. Furthermore, this protection from disclosure extends not only to the name of the individual, but also to any information tending to identify the individual. *See* Open Records Decision No. 540 (1990) (interpreting section 552.123 which, in language similar to section 552.126, protects identities of applicants for chief executive officer of institution of higher education as applying to identities, rather than just names of applicants). This office has previously held the type of information that identifies individuals in such cases includes, but is not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* We understand prior to the date the district received the clarified request, the district’s board publicly announced the name of a lone finalist for the position of superintendent. Further, the district hired that individual. Thus, only the information that identifies or tends to identify other candidates for the position of superintendent is excepted from disclosure under section 552.126. Upon review, we find the district has demonstrated the applicability of section 552.126 to some of the submitted information, which we marked. Therefore, the district may withhold the information we marked under section 552.126 of the Government Code. However, the remaining information, which relates to the individual who was hired, may not be withheld under section 552.126. The district must 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 <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,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jm

Ms. Christine Badillo - Page 3

Ref: ID# 852591

Enc. Submitted documents

c: Requestor  
(w/o enclosures)