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ATTORNEY GENERAL OF TEXAS

November 24, 2020

Ms. Mariana G. Evans
Counsel for the Fort Bend Independent School District
Rogers, Morris & Grover, LLP
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2020-29409

Dear Ms. Evans:

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# 855521.

The Fort Bend Independent School District (the "district"), which you represent, received a request for the communications log related to a specified meeting and all digital and cellular communications made by five named individuals during the specified meeting. You state you will release some information to the requestor. You claim the submitted information is not subject to the Act. We have considered your argument and reviewed the submitted information.

You contend the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as the following:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Id. § 552.002(a-1). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Further, information that is written, produced, collected, assembled, or maintained by an individual officer or employee of a governmental body in the officer's or employee's official capacity may be subject to disclosure under the Act if the information pertains to official business of the governmental body. Gov't Code § 552.002(a)(3). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See id.* § 552.002(a-1). Moreover, section 552.001 of the Act provides it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See id.* § 552.001(a).

You argue the district does not possess the information at issue or have a right of access to the requested information. You further argue the information at issue does not pertain to the district's official business. However, we note the district submitted the information at issue as information responsive to the request. In addition, we note the information at issue consists text messages exchanged between district board members and officials relating to organizing speakers at an official district board meeting, managing the conduct of the meeting, and reacting to remarks made during the meeting. Thus, we find the information at issue was created in connection with the transaction of official business of the district. *See* Gov't Code § 552.002(a-1). Therefore, the information at issue is subject to the Act and must be released, unless the information falls within an exception to public disclosure

under the Act. As no exceptions to disclosure apply, the district must release the information at issue.

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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/be

Ref: ID# 855521

Enc. Submitted documents

c: Requestor
(w/o enclosures)