



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2020

Mr. Adam Bitter
General Counsel
Office of the Secretary of State
P.O. Box 12697
Austin, Texas 78711-2697

OR2020-31924

Dear Mr. Bitter:

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# 859920 (PIR No. 20-1001).

The Office of the Secretary of State (the "secretary's office") received a request for information pertaining to complaints regarding a named candidate during a certain time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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 section 31.006 of the Election Code. Section 31.006 of the Election Code provides the following:

(a) If, after receiving a complaint alleging criminal conduct in connection with an election, the [secretary's office] determines that there is reasonable cause to suspect that the alleged criminal conduct occurred, the secretary shall promptly refer the complaint to the [Office of the Attorney General ("OAG")]. The secretary shall deliver to the [OAG] all pertinent documents in the secretary's possession.

(b) The documents submitted under Subsection (a) are not considered public information until:

(1) the [secretary's office] makes a determination that the complaint received does not warrant an investigation; or

(2) if referred to the [OAG], the [OAG] has completed the investigation or has made a determination that the complaint referred does not warrant an investigation.

Elec. Code § 31.006. You state the submitted information consists of an election complaint. You also state the secretary's office was still evaluating the complaint and had not, at the time of the request, made a determination whether the complaint warranted an investigation. Based on your representations and our review, we agree the information at issue is not considered public information under section 31.006(b). Accordingly, the secretary's office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 31.006(b) of the Election 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 <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,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/gw

Ref: ID# 859920

Enc. Submitted documents

c: Requestor
(w/o enclosures)