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May 3, 2022

Mr. David Holmes
Counsel for the Manor Independent School District
Walsh Gallegos Treviño Kyle & Robinson P.C.
P.O. Box 2156
Austin, Texas 78768

OR2022-12585

Dear Mr. Holmes:

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# 945049.

The Manor Independent School District (the "district"), which you represent, received a request for three categories of information pertaining to school board candidates during a specified time period. You claim some of the submitted information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 1.012 of the Election Code, which provides as follows:

(a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

...

(c) Except as otherwise provided by this code or [the Act], all election records are public information.

(d) In this code, “election record” includes:

(1) anything distributed or received by government under this code;

...

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

Elec. Code § 1.012(a), (c), (d)(1), (d)(3). Campaign contribution and finance reports must be filed under the Election Code. *See id.* §§ 254.031, .061, .091. Thus, the submitted campaign finance reports constitute “election record[s]” and are public information subject to disclosure, except as provided by the Act. *See id.* § 1.012(a), (c). Accordingly, we will address the district’s argument against disclosure.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, emergency contact information, and family member information of current or former officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *See Gov’t Code* § 552.117(a); Open Records Decision No. 622 (1994). Section 552.117(a)(17) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of an elected public officer, regardless of whether the officer complies with section 552.024 or section 552.1175 of the Government Code. *See Gov’t Code* § 552.117(a)(17). However, section 552.117 applies only to records that a governmental body holds in an employment capacity. *See Open Record Decision* Nos. 532 (1989) (purpose of predecessor to section 552.117 is to protect certain information during and after employment relationship), 530 (1989) (discussing interplay between sections 552.024 and 552.117), 455 (1987). The information at issue constitutes election records the district maintains in accordance with the Election Code, and not in an employment capacity. Thus, the district may not withhold any of the submitted information under section 552.117 of the Government Code.

We note some of the submitted information may be subject to section 552.1175 of the Government Code, which provides, in part:

(a) This section applies only to:

...

(17) an elected public officer[.]

(b) Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of

an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a)(17), (b).¹ For purposes of section 552.1175, "family member" means a spouse, minor child, or adult child who resides in the person's home. *Cf. id.* § 552.117(c) ("family member" has meaning assigned by Fin. Code § 31.006(d)). We note section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). We also note a post office box number is not a "home address" for purposes of section 552.1175. *Cf.* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed at home). Accordingly, to the extent the submitted information consists of the home address; the home telephone number; or the cellular telephone number of an elected public officer, or information that reveals whether the elected public officer has family members, the district must withhold such information under section 552.1175 of the Government Code if the elected public officer to whom the information pertains elects to restrict access to the information in accordance with section 552.1175(b); however, the district may withhold the cellular telephone numbers at issue only if a governmental body does not pay for the cellular telephone service. If the individual to whom the information relates is not an elected public officer or does not make an election under section 552.1175(b), then the district may not withhold the information at issue under section 552.1175. 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->

¹ The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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Sincerely,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/mo

Ref: ID# 945049

Enc. Submitted documents

c: Requestor
(w/o enclosures)