



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 7, 2022

Ms. Janet Bubert
Counsel for Westlake Academy
Underwood Law Firm, P.C.
1008 Macon, Suite 101
Fort Worth, Texas 76102

OR2022-16233

Dear Ms. Bubert:

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# 950227.

Westlake Academy (the "academy"), which you represent, received a request for a specified procedure. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you marked a portion of the submitted information as not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the academy is not required to release such information in response to this request.

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 information protected by other statutes, such as section 37.108 of the Education Code, which provides, in part, as follows:

- (a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address the prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center in conjunction with the governor's office of homeland security and the commissioner of education or commissioner of higher education, as applicable. The plan must provide for:

(1) training in responding to an emergency for district employees, including substitute teachers;

(2) measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

(3) measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

(4) if the plan applies to a school district, mandatory school drills and exercises, including drills required under Section 37.114, to prepare district students and employees for responding to an emergency;

(5) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

(6) the implementation of a safety and security audit as required by Subsection (b).

(b) At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a person included in the registry established by the Texas School Safety Center under Section 37.2091.

...

(c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under [the Act].

Educ. Code § 37.108(a), (b), (c-1). You state the responsive information was developed, collected, or produced during or for a safety and security audit conducted under section 37.108(b). *See id.* § 37.108(b); *see also id.* § 12.104 (b)(3)(U) (open-enrollment charter schools subject to requirements of Educ. Code § 37.108). You further state none of the exceptions in subsection (c-2) are applicable to the information at issue. *See id.* § 37.108(c-2) (listing types of documents relating to district's multihazard emergency operations plan that are subject to disclosure). Based upon your representations and our

review, we find the academy must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 37.108(c-1) of the Education Code.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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/jxd

Ref: ID# 950227

c: Requestor

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.