



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 15, 2022

Mr. David P. Hansen
Counsel for the Irion County Independent School District
Eichelbaum, Wardell, Hansen, Powell & Munoz, P.C.
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2022-17229

Dear Mr. Hansen:

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# 952044.

The Irion County Independent School District (the "district"), which you represent, received a request for fifteen categories of information, including certain information pertaining to a specified donation.¹ You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

¹ We note, after receiving the request, the district sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615.

² We note the requestor argues the district failed to comply with the requirements of section 552.301 of the Government Code regarding this request. *See* Gov't Code § 552.301(b), (e). Regardless of whether there was a section 552.301 violation, we note section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301 of the Government Code.

Initially, we note the requestor has specifically excluded bank account numbers from his request. Thus, this type of information is not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release such information in response to the present 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.” *Id.* § 552.101. Section 552.101 encompasses the doctrine of constitutional privacy. Constitutional privacy consists of two interrelated types of privacy: (1) the right to make certain kinds of decisions independently, and (2) an individual’s interest in avoiding disclosure of personal matters. *See* Open Records Decision No. 455 at 4 (1987). The first type protects an individual’s autonomy within “zones of privacy” which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *Id.* The second type of constitutional privacy requires a balancing between the individual’s privacy interests and the public’s need to know information of public concern. *Id.* The scope of information protected is narrower than that under the common-law doctrine of privacy; the information must concern the “most intimate aspects of human affairs.” *Id.* at 5 (quoting *Ramie v. City of Hedwig Village, Texas*, 765 F.2d 490 (5th Cir. 1985)).

Upon review, we find you have failed to demonstrate any of the responsive information at issue is protected by constitutional privacy. Accordingly, the district may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with constitutional privacy.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.”³ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the district must withhold the bank routing number under section 552.136 of the Government Code. The district must release the remaining responsive 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.

³ 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).

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# 952044

c: Requestor