



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 15, 2022

Ms. Emma Darling
Counsel for the Castleberry Independent School District
Eichelbaum, Wardell, Hansen, Powell & Muñoz, P.C.
5801 Tennyson Parkway, Suite 360
Plano, Texas 75024

OR2022-17265

Dear Ms. Darling:

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# 952042.

The Castleberry Independent School District (the "district"), which you represent, received a request for a named district employee's personnel file and compensation information and information related to specified types of supplemental payments made by the district, including related payment records, policies, and procedures. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it was created after the district received the instant request, or it does not consist of the requested personnel file, compensation, or payment information. 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 this request.¹

Next, we note you have not submitted the requested compensation information for the named employee or the requested policies and procedures. Although you state the district has submitted a representative sample of the requested information, we find the responsive

¹ As we are able to make this determination, we need not address your argument against disclosure of this information.

information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information the district has submitted for our review. This ruling does not authorize the district to withhold any information that is substantially different from the types of information it submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any information responsive to the remainder of the request existed on the date the district received the present request for information, we assume the district has released it to the requestor. If the district has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Additionally, we note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The responsive information consists of information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by the district subject to section 552.022(a)(3). The responsive information must be released unless it is made confidential under the Act or other law. *See id.* You seek to withhold the responsive information under section 552.103 of the Government Code. However, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); *see also* Open Records Decision No. 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the district may not withhold the responsive information under section 552.103 of the Government Code. As you raise no additional exceptions to disclosure, the district must release the 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.

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/jxd

Ref: ID# 952042

Enc. Submitted documents

c: Requestor
(w/o enclosures)