



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 24, 2022

Mr. Dennis Eichelbaum
Counsel for the Arlington Independent School District
Eichelbaum, Wardell, Hansen, Powell & Munoz, P.C.
5801 Tennyson Parkway, Suite 360
Plano, Texas 75024

OR2022-18198

Dear Mr. Eichelbaum:

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# 955815.

The Arlington Independent School District (the "district"), which you represent, received a request for information pertaining to a named individual. You claim the requested information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note Exhibit C is not responsive to the instant request because the information contained within Exhibit C was created after receipt of the 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 the submitted nonresponsive information in response to this request.

Next, we must address the district's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e). The district received the request for information on April 1, 2022. However, as of the date of this letter, the district

has not submitted for our review a copy or representative sample of the information at issue.¹ Consequently, we find the district failed to comply with section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although the district raises section 552.103 of the Government Code, because you have not submitted the information at issue for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302.

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,

Cesar Mata
Attorney
Open Records Division

CM/jxd

Ref: ID# 955815

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ We note, you specifically state you have not submitted a copy of the information at issue.