



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 18, 2022

Mr. S. Anthony Safi
Counsel for El Paso Independent School District
Mounce, Green, Myers, Safi, Paxson & Galatzan, P.C.
P.O Box 1977
El Paso, Texas 79999-1977

OR2022-32027

Dear Mr. Safi:

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# 978683 (EPISD ORR # W003883-072622).

The El Paso Independent School District (the "district"), which you represent, received a request for information pertaining to a specified investigation. You state you have released some of the requested information. We understand you will redact information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.¹ You claim some of the submitted information is excepted from disclosure under sections 552.135 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.135 of the Government Code provides, in relevant part:

(a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's

¹ Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2).

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov't Code § 552.135(a)-(c). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under that exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not report a violation are not informants for purposes of section 552.135 of the Government Code. You assert some of the submitted information identifies employees who reported alleged violations of criminal and civil laws. Upon review, we conclude the district must withhold the information we marked under section 552.135 of the Government Code.³ However, we find the district has failed to demonstrate how any of the remaining information at issue reveals the identity of an informer for purposes of section 552.135 of the Government Code. Therefore, the district may not withhold any of the remaining information you highlighted on that basis.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 [of the Government Code] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Id. § 552.152. Upon review, we find you have failed to demonstrate release of the remaining information you highlighted would subject an employee of the district to a

³ As our ruling is dispositive, we need not consider your remaining argument against disclosure of this information.

substantial threat of physical harm. Accordingly, the district may not withhold the remaining information you highlighted under section 552.152.

In summary, the district must withhold the information we marked under section 552.135 of the Government Code. 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-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,

Nick Ybarra
Assistant Attorney General
Open Records Division

NY/pt

Ref: ID# 978683

Enc. Submitted documents

c: Requestor
(w/o enclosures)