



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 1, 2022

Mr. Neil Bonavita
Attorney
Fort Worth Independent School District
100 North University Drive, Suite SE 224
Fort Worth, Texas 76107-1360

OR2022-33939

Dear Mr. Bonavita:

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# 981743 (Ref. No. W005628).

The Fort Worth Independent School District (the "district") received a request for a specified conciliation agreement. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

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. This section encompasses section 154.073 of the Civil Practice and Remedies Code, which provides, in relevant part, the following:

(a) Except as provided by Subsections (c), (d), (e), and (f), a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

(b) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party facilitating the procedure

¹ We note the district did not comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

may not be required to testify in any proceedings related to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute.

...

(d) A final written agreement to which a governmental body, as defined by Section 552.003, Government Code, is a signatory that is reached as a result of a dispute resolution procedure conducted under this chapter is subject to or excepted from required disclosure in accordance with [the Act.]

Civ. Prac. & Rem. Code § 154.073(a)-(b), (d). You state the submitted information consists of a proposed conciliation agreement made during a formal alternative dispute resolution procedure. Upon review, we agree the information at issue consists of a record made at an alternative dispute resolution procedure. *See id.* § 154.073(b). Accordingly, we conclude the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 154.073 of the Civil Practice and Remedies Code.

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/eb

Ref: ID# 981743

Enc. Submitted documents

c: Requestor
(w/o enclosures)