



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 29, 2022

Mr. Michael Roseberry  
Senior Attorney  
Austin Independent School District  
4000 South IH-35 Frontage Road  
Austin, Texas 78704

OR2022-36810

Dear Mr. Roseberry:

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# 987320.

The Austin Independent School District (the "district") received a request for information pertaining to investigations of teachers for misconduct. The district states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>1</sup>

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 261.201(a) of the Family Code, which provides as follows:

[T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

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<sup>1</sup> 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.

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). The district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, we find some of the submitted information, which we have marked, was used or developed by the district's police department (the "department") in investigations under chapter 261. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201). Thus, this information is within the scope of section 261.201 of the Family Code. The district does not indicate the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such rule exists. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* However, we find the district has not established the remaining information is confidential under section 261.201(a). Consequently, the district may not withhold any of the remaining information under section 552.101 on that ground.

Section 552.108(a) of the Government Code provides, in part, the following:

Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Section 552.108(a)(1) protects information that pertains to a pending criminal investigation or prosecution, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. Upon review, we find the district did not label or otherwise identify which portion of the information pertains to a pending criminal investigation or prosecution, and which pertains to a concluded investigation or prosecution that did not result in conviction or deferred adjudication. *See id.* § 552.301(e)(2) (governmental body must label copy of information at issue to indicate which exceptions apply to which parts of the information). Therefore, we find the district has not established

any of the remaining information is excepted from disclosure under section 552.108(a)(1) or 552.108(a)(2) of the Government Code. Thus, the district may not withhold any of the remaining information on either ground.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/pt

Ref: ID# 987320

Enc. Submitted documents

c: Requestor  
(w/o enclosures)