



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 14, 2022

Mr. Montgomery Meitler
Deputy General Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2022-38681

Dear Mr. Meitler:

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# 989986 (PIR #55884).

The Texas Education Agency (the "agency") received a request for e-mails sent to or received from McKinney Independent School District during a defined period of time. You state you will release some information to the requestor. You also state you have redacted e-mail addresses pursuant to section 552.137 of the Government Code in accordance with Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

Initially, we note some of the submitted information, which we marked, is not responsive to the instant request for information because it is outside the requested time period. This ruling does not address the public availability of any information that is not responsive to the request and the agency is not required to release such information in response to this request.³

¹ Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

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 that those records contain substantially different types of information than that submitted to this office.

³ As we are able to make this determination, we need not address the submitted argument against disclosure of this 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. Section 552.101 encompasses section 39.004(e) of the Education Code which provides as follows:

(e) Unless otherwise provided by law, all evidence collected by [TEA] in connection with a special investigation, including witness statements and videos of agency interviews, are confidential and not subject to disclosure under [the Act], except that evidence described by this section may be disclosed:

(1) to a person with a legitimate interest in the investigation; or

(2) in connection with an administrative or other legal proceeding brought under this title.

Educ. Code § 39.004(e). The agency states the responsive information was collected and prepared by its Division of Compliance and Inquiries in conjunction with a pending special investigation. The agency also states the investigation was authorized by section 39.003(a) of the Education Code. *See id.* § 39.003 (listing circumstances in which the commissioner shall authorize investigations). Based upon these representations, we find the information at issue constitutes evidence collected by the agency in connection with the special investigation. Accordingly, the agency must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 39.004(e) of the Education 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

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Enc. Submitted documents

c: Requestor
(w/o enclosures)