



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 20, 2022

Ms. Kacey Villafuerte
Counsel for the Uvalde Consolidated Independent School District
Walsh, Gallegos, Trevino, Kyle & Robinson, P.C.
6770 West Expressway 83, Suite 301
Harlingen, Texas 78552

OR2022-39653

Dear Ms. Villafuerte:

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# 986932 (PIA# 0190).

The Uvalde Consolidated Independent School District (the "district"), which you represent, received a request for information pertaining to the district's police department employment records. You state the district does not have information responsive to a portion of the request.¹ You claim the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim.

Initially, we note the requested information may be the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2022-27016 (2022) and 2022-29505 (2022). We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, we conclude the district must continue to rely on Open Records Letter Nos. 2022-27016 and 2022-29505 as previous determinations and withhold or release the identical information in accordance with these rulings.² *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). To the extent the requested information was not subject to the prior rulings, we will address the submitted arguments.

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

¹ The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

² As we are able to make this determination, we need not address your arguments against disclosure of this information.

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 September 28, 2022. However, as of the date of this letter, the district has not submitted for our review written comments stating the reasons why the stated exceptions apply or a copy or representative sample of the information requested. 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 exceptions to disclosure, because you have not submitted the remaining requested information 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 remaining 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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/pt

Ref: ID# 986932

c: Requestor