



Office of Public Information

February 26, 2018

Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, TX 78711

Re: Public Information Request 17405_40_Dolan

Dear Open Records Division:

The Katy Independent School District received a written request for information from Mr. Sean Dolan, a copy of which is attached and labeled "A." The request seeks a list or printout of all data fields currently used by the district in the eSchoolPlus program for housing student data. Proprietary information belonging to a software vendor has been requested and, therefore, a Notice Statement to Persons Whose Proprietary Information is Requested was issued. A copy of the notice is attached and labeled "B."

The ten business day deadline for this letter, pursuant to Tex. Gov't Code Sec. 552.301(b) is today, February 26, 2018.

The District believes that the information requested is exempt and privileged from disclosure under sections 552.101, 552.104, 552.110, 552.113, 552.131 and 552.108 of the Government Code. Additionally, because the requested information is a tool or key, it is an excluded tangible item under Open Records Decision 581 (1990). Moreover, the District's agreement with the software vendor prohibits voluntary disclosure of this information.

Pursuant to Tex. Gov't Code Sec. 552.301(e), the District will submit to the Attorney General by March 5, 2018:

- (a) Written comments stating the reasons why the stated exceptions listed above apply that would allow or require the information to be withheld; and
- (b) A copy of the specific information requested, or representative samples of that information was requested.

By my signature below, I certify that the request for information was received on February 12, 2018. If you have any questions, or need additional information or documentation, please contact me at (281) 396-7883.

Sincerely,

A handwritten signature in black ink that reads "Sabrina E Fernandez" with a stylized flourish at the end.

Sabrina E. Fernandez

KATY INDEPENDENT SCHOOL DISTRICT
PUBLIC INFORMATION SPECIALIST

cc: Sean Dolan via email to sean@pushfire.com

Fernandez, Sabrina E (SPEC SRVCS)

From: Sean Dolan <sean@pushfire.com>
Sent: Monday, February 12, 2018 12:39 PM
To: PublicRecords
Subject: Re: PIR 17374_30S_Dolan Clarification on Possible New Public Information Request

This is correct, thank you!

On Mon, Feb 12, 2018 at 12:25 PM, PublicRecords <PublicRecords@katyisd.org> wrote:

Mr. Dolan,

Thank you for speaking with me over the phone. As we discussed, you would like to withdraw the request for a fee estimate below and instead submit a new request for a list or printout of all data fields currently used by the district in the e-school plus program for housing student data.

Please confirm that this is correct, and I will proceed by submitting a request with our technology department.

Thank you,

Sabrina Fernandez

Public Information Unit

Office of the General Counsel

Katy Independent School District



NOTICE STATEMENT TO PERSONS WHOSE PROPRIETARY INFORMATION IS REQUESTED

February 26, 2018

Jeff Lambert, Chief Legal Officer ✓
PowerSchool
150 Parkshore Drive
Folsom, CA 95630

sent via Jeff.Lambert@powerschool.com ✓

Bronne Bruzgo, Vice President Sales ✓
SunGuard Public Sector
3 West Broad Street, Ste. 1
Bethlehem, PA 18018

sent via fax (610) 691-1031 ✓

Re: Katy ISD Public Information Request 17405_40_Dolan

Dear Mr. Lambert and Mr. Bruzgo:

We have received a formal request to inspect or copy some of our files. A copy of the request for information is enclosed. The requested files include records we received from you or from your company. The Office of the Attorney General is reviewing this matter, and they will issue a decision on whether Texas law requires us to release your records. Generally, the Public Information Act (the "Act") requires the release of requested information, but there are exceptions. As described below, you have the right to object to the release of your records by submitting written arguments to the attorney general that one or more exceptions apply to your records. You are not required to submit arguments to the attorney general, but if you decide not to submit arguments, the Office of the Attorney General will presume that you have no interest in withholding your records from disclosure. In other words, if you fail to take timely action, the attorney general will more than likely rule that your records must be released to the public. If you decide to submit arguments, **you must do so not later than the tenth business day after the date you receive this notice.**

If you submit arguments to the attorney general, you must:

- a) identify the legal exceptions that apply,
- b) identify the specific parts of each document that are covered by each exception, and
- c) explain why each exception applies.

Gov't Code § 552.305(d). A claim that an exception applies without further explanation will not suffice. Attorney General Opinion H-436 (1974). You may contact this office to review the information at issue in order to make your arguments. We will provide the attorney general with a copy of the request for information and a copy of the requested information, along with other material required by the Act. The attorney general is generally required to issue a decision within 45 business days.

Please send your written comments to the Office of the Attorney General at the following address:

Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

If you wish to submit your written comments electronically, you may only do so via the Office of the Attorney General's eFiling System. An administrative convenience charge will be assessed for use of the eFiling System. No other method of electronic submission is available. Please visit the attorney general's website at <http://www.texasattorneygeneral.gov> for more information.

In addition, you are required to provide the requestor with a copy of your communication to the Office of the Attorney General. Gov't Code § 552.305(e). You may redact the requestor's copy of your communication to the extent it contains the substance of the requested information. Gov't Code § 552.305(e).

Commonly Raised Exceptions

In order for a governmental body to withhold requested information, specific tests or factors for the applicability of a claimed exception must be met. Failure to meet these tests may result in the release of requested information. We have listed the most commonly claimed exceptions in the Government Code concerning proprietary information and the leading cases or decisions discussing them. This listing is not intended to limit any exceptions or statutes you may raise.

Section 552.101: Information Made Confidential by Law

Open Records Decision No. 652 (1997).

Section 552.104: Confidentiality of Information Relating to Competition

Boeing Co. v. Paxton, 466 S.W. 3d 831 (Tex. 2015).

Section 552.110: Confidentiality of Trade Secrets and Commercial or Financial Information

Trade Secrets:

In re Bass, 113 S.W.3d 735 (Tex. 2003).

Hyde Corp. v. Huffines, 314 S.W.2d 763, 776 (Tex.), *cert. denied*, 358 U.S. 898 (1958).

Open Records Decision No. 552 (1990).

Commercial or Financial Information:

Birnbaum v. Alliance of Am. Insurers, 994 S.W.2d 766 (Tex. App.—Austin 1999, pet. filed) (construing previous version of section 552.110), *abrogated by In re Bass*, 113 S.W.3d 735 (Tex. 2003).

Open Records Decision No. 639 (1996).

Open Records Decision No. 661 (1999).

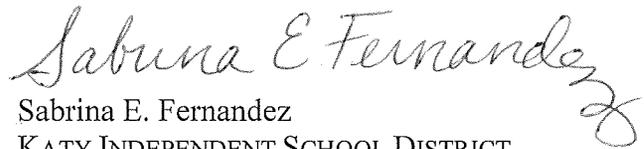
Section 552.113: Confidentiality of Geological or Geophysical Information

Open Records Decision No. 627 (1994).

Section 552.131: Confidentiality of Certain Economic Development Negotiation Information

If you have questions about this notice or release of information under the Act, please refer to the *Public Information Act Handbook* published by the Office of the Attorney General, or contact the attorney general's Open Government Hotline at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX). To access the *Public Information Act Handbook* or Attorney General Opinions, including those listed above, please visit the attorney general's website at <http://www.texasattorneygeneral.gov>.

Sincerely,



Sabrina E. Fernandez
KATY INDEPENDENT SCHOOL DISTRICT
PUBLIC INFORMATION SPECIALIST

6301 S. STADIUM LANE
KATY, TX 77450

Enclosure: Copy of request for information

cc: Requestor
Sean Dolan sean@pushfire.com
(w/o enclosure)

Open Records Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548
(w/o enclosure)