

November 5, 2025

VIA E-FILE

The Honorable Ken Paxton
Attorney General, State of Texas
Open Records Section
P.O. Box 12548
Austin, Texas 78711-2548

Re: Open Records Request – Isaak Ruiz – RE: Lorena Alvarez
Received on October 15, 2025
OAG Tracking ID: OR25049973
Texas.gov Request ID: 66350896

Dear Attorney General Paxton:

Our firm represents the Eagle Pass Independent School District (“the District”). On October 29, 2025, our firm sent a timely letter on the District’s behalf requesting a decision from your office regarding the above-captioned subject pursuant to the Texas Public Information Act (“the Act”). This letter serves as the District’s follow-up submission as required by the Act.

The District believes that information contained in the responsive documents attached as Exhibit “A” are not subject to mandatory disclosure. The District believes the following exceptions from disclosure are applicable:

Tex. Gov’t Code §552.101: Confidential Information

Section 552.101 of the Act excepts from public disclosure “information considered confidential by law, either constitutional, statutory, or by judicial decision.” *See Tex. Gov’t Code §552.101*. This section encompasses other federal statutory provisions that may be applicable to the requested records in a public information request, such as the Family Medical Leave Act (FMLA). *See 29 USC 2601 et. seq.*

Tex. Gov’t Code § 552.101: Confidential Information (Family and Medical Leave Act)

Section 552.101 encompasses the Family and Medical Leave Act (“FMLA”). *See OR2020-20062; See also, 29 U.S.C. §§2601 et seq.* Specifically, Section 825.500(g) of Chapter V of Title 29 of the Code of Federal Regulations states “records and documents relating to medical certifications, recertifications or medical histories of employee...created for purposes of FMLA, shall be maintained as confidential medical records...” 29 C.F.R. §825.500(g). Accordingly, the

information in the documents attached as Exhibit “A” that references employees FMLA status is confidential under Section 825.500 of Title 29 of the Code of Federal Regulations.

My client has already separated the employee’s medical file from the employee’s personnel file. The documents at Exhibit “A” are the remaining FMLA documents, which relate to when the employee’s FMLA leave of absence was taken, the days she was absent from work, and when she returned to work. While admittedly, these documents are not medical certifications, recertifications or medical histories” *per se*, they indirectly point to the fact that this employee has a medical history, and that she had to obtain a medical certification in order to take an extended leave of absence. In an abundance of caution, we submit these remaining documents to your office for a determination as to whether FMLA confidentiality provisions apply.

Texas Health and Safety Code 181.006 Protected Health Information

Another statute which requires confidentiality of certain protected health information is found at Texas Health and Safety Code 181.006. This statute states:

Notwithstanding Sections 181.004 and 181.051, for a covered entity that is a governmental unit, an individual's protected health information:

- (1) includes any information that reflects that an individual received health care from the covered entity; and
- (2) is not public information and is not subject to disclosure under Chapter 552, Government Code.

My client is concerned that release of the documents at Exhibit “A” may be indicative of the fact that the employee received health care from a covered entity, and would therefore not be considered public information subject to disclosure.

Information Confidential as an Invasion of Privacy

Section 552.101 also excepts from required public disclosure information held confidential under case law. Pursuant to the Texas Supreme Court decision in *Indus. Found. v. Tex. Indus. Accident Bd.*, 355 Section 552.101 applies to information when its disclosure would constitute the common-law tort of invasion of privacy through the disclosure of private facts. To be within this common-law tort, the information must (1) contain highly intimate or embarrassing facts about a person’s private affairs such that its release would be highly objectionable to a reasonable person and (2) be of no legitimate concern to the public.

My client believes that information regarding the mere fact that an employee had to take an extended leave of absence for a reason listed in the FMLA would meet this criteria, and would not be of legitimate concern to the public.

Conclusion

For the foregoing reasons, the District believes that the information as discussed above and the documents attached as Exhibit "A" should be excepted from disclosure under the Act.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

ESCAMILLA & PONECK, LLP

Stacy C. Ferguson

STACY C. FERGUSON

SCF/rsg

Enclosure(s) as noted

cc: Isaak Ruiz (Via Email: themavericktimesnews@gmail.com) *without Enclosure(s)*

Mr. Jesus Costilla, Eagle Pass ISD