



Texas Association of School Boards

Legal Services

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Serving Texas Schools Since 1949

Texas Public Information Act Basic Principles of the PIA

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1. What is the Texas Public Information Act?

The Texas Public Information Act (“PIA” or “the Act”), codified at Chapter 552 of the Texas Government Code, governs a public citizen’s right to request access to information of governmental bodies and outlines the rights, obligations, and procedures of both governmental bodies, including school districts, and information requestors. Declaring that a person is entitled to complete information about the affairs of government and the official acts of public officials and employees, the PIA requires governmental bodies to disclose requested information unless otherwise expressly provided by law. Furthermore, the PIA must be liberally construed in favor of granting a request for information. Tex. Gov’t Code § 552.001(a), (b).

2. Does the PIA apply to school district boards of trustees?

Yes. The PIA applies to a school district board of trustees. Tex. Gov’t Code § 552.003(1)(A)(v).

3. What kinds of district information are subject to disclosure under the PIA?

Nearly all information of a school district that exists in connection with the transaction of official business will be considered information subject to disclosure under the PIA. Generally, only information specified by the PIA or by other laws as confidential by law and not subject to disclosure under the PIA may be considered for nondisclosure.

The term *public information* under the PIA means any information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or

- (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body. Tex. Gov't Code § 552.002(a).

The PIA covers any district information *in connection with the transaction of official business* if the information pertains to official business of the district and is created by, transmitted to, received by, or maintained by a district officer or employee in his or her official capacity or by anyone performing official business or governmental functions on behalf of the district. Tex. Gov't Code § 552.002(a-1).

4. Is information in electronic form subject to the PIA?

Yes. *Public information*, as defined by the PIA, may be in any form. Information subject to the PIA includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business. Information subject to the PIA may also be in the form of any media or any physical material on which information is recorded or stored. Tex. Gov't Code § 552.002(a-2). Information subject to the PIA may be located on paper; film; tape; Mylar; linen; silk; vellum; or a magnetic, optical, solid state, or other device that can store an electronic signal. Information may also include a book, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory. Tex. Gov't Code § 552.002(b), (c).

5. Is information located on a personal device subject to the PIA?

Yes. *Public information*, as defined by the PIA, may be located on any device, including both privately-owned and district-issued devices. The definition of *public information* applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business. Tex. Gov't Code § 552.002(a-2). A current or former board member or employee who maintains public information on a privately-owned device must either forward or transfer the information to the school district or district server to be preserved as required by the PIA or preserve the information in its original form in a backup or archive and on the privately-owned device in accordance with required retention periods. Tex. Gov't Code § 552.004(b).

For more information about an employee or board member's obligations for information maintained on privately-owned devices, see TASB Legal Services' [Texas Public Information Act: Duties of Temporary Custodians](#).

6. How may a person make a request for information under the PIA?

A person may make a written request for public information under the PIA only by delivering the request by one of the following methods to the district's public information officer (PIO) or the PIO's designee:

- U.S. mail;
- email;
- hand delivery; or
- any other appropriate method approved by the district (including facsimile and online website submission). Tex. Gov't Code § 552.234(a).

A district is considered to have approved an appropriate method for submitting requests for public information only if the district includes a statement, stating that a public information request may be made by that method, on the PIA sign required by Section 552.205 of the PIA or on its website. Tex. Gov't Code § 552.234(b).

7. May a school district designate a specific mailing address and email address for receiving requests for public information?

Yes, a school district may designate one mailing address and one email address for receiving written requests for public information. A district that posts the designated mailing address and email address on its website or that prints those addresses on the PIA sign required by the PIA to be displayed is not required to respond to a written request for public information unless the request is received at one of those addresses, by hand delivery; or by a method that has been approved by the district as described above. The district must provide the designated mailing address and electronic mailing address to any person on request. Tex. Gov't Code § 552.234(c), (d).

8. Must a school district use the attorney general's public information request form?

No, a district is not required to use the attorney general's public information request form. However, the attorney general's request form allows a requestor the option of excluding from a request any information that the district determines is confidential or subject to an exception to disclosure that the district would assert if the information were subject to the request. Tex. Gov't Code § 552.235(a). A district may find this form helpful in reducing efforts necessary to otherwise seek a requestor's permission to narrow the scope of potentially responsive information.

A district that maintains a website and allows requestors to use the attorney general's public information request form must post the form on its website. Tex. Gov't Code § 552.235(b). Districts may find this form on the [attorney general's Public Information Request Form Website](#).

9. When may a school district withhold records or redact information from records that are subject to the PIA?

The PIA permits a district to withhold information in its possession from the public only as expressly allowed by the PIA. Tex. Gov't Code § 552.006. Otherwise, a district is not authorized to withhold or redact from the public any information that is subject to the Act. The PIA generally allows a district to withhold or redact responsive public information in two limited circumstances: (1) when the district has requested and received a written decision, commonly known as a ruling or opinion, from the attorney general granting permission for the information to be withheld, or (2) when the requested information is specifically allowed by the PIA to be withheld without seeking an attorney general's ruling. A district may rely on an attorney general's ruling, also called a "previous determination" ruling, concerning the exact same documents for all future requests seeking identical documents where factual circumstances are unchanged. Tex. Gov't Code § 552.301.

10. When must a school district withhold or redact confidential information from records subject to the PIA?

A district may not release any information made confidential by law or expressly prohibited from disclosure by law, including the PIA. Tex. Gov't Code § 552.007.

A person commits an offense, also considered to be official misconduct, if the person distributes information considered confidential under the PIA, and may be punished with fines up to \$1,000, county jail time up to six months, or both. Tex. Gov't Code § 552.352.

In this situation, a district must withhold or redact responsive information from the public as described above, either by requesting and obtaining a written decision from the attorney general granting permission for the information to be withheld, relying on a previous determination ruling concerning identical documents under identical circumstances, or identifying for the requestor a specific provision in the PIA that allows information to be withheld by the district without seeking an attorney general's ruling. Tex. Gov't Code § 552.301.

11. What actions must a school district take if it wishes to withhold or redact information?

To withhold or redact information that is responsive to a request but is either confidential by law or that may be excepted under the PIA, a district is limited to one of the following actions under the PIA:

1. request a decision, or ruling, from the attorney general, that specifically determines the requested information at issue has been reviewed by the attorney general and may be withheld or redacted from the public; or
2. rely on a *previous determination* ruling previously requested by the district and granted by the attorney general for withholding the same information that is now being requested again (unless law, facts, and circumstances related to the specific information have changed); or
3. rely on a *previous determination* ruling granted by the attorney general to all applicable governmental bodies, including school districts, such as attorney general open record decision numbers ORD-684 (2009) and ORD-670 (2001) (described further below); or
4. rely on a *section 108(a)(1) previous determination* (“108 PD”) ruling that was previously requested by a district and granted by the attorney general for withholding certain types of law enforcement information in a pending criminal investigation or prosecution described by Texas Government Code section 108(a)(1) that is now requested again, so long as the district complies with additional procedures required by the attorney general; or
5. provide a requestor the required notice form from the attorney general, along with disclosure of information with allowed redactions and withholding, if the withholding or redaction is expressly allowed by the PIA without seeking an attorney general’s ruling.

Tex. Gov’t Code § 552.301(a); Tex. Att’y Gen. ORD-673 (2001).

12. What is a previous determination by the attorney general?

A *previous determination* is a written ruling from the attorney general that was previously issued to a governmental body who had requested and had been granted authorization to withhold, or redact, certain information. If the attorney general has previously determined specific information may be withheld from public disclosure, then a district is not required to ask for a new ruling each time this specific information is requested again when no laws, facts, or circumstances have changed. See Tex. Gov’t Code § 552.301(a) (stating that a governmental body must ask for a decision from the attorney general

before withholding information if there has not been a previous determination that said information falls within an exception). The district may simply refer to the ruling number of the previous determination in its response to the requestor.

Two types of previous determinations exist. The first type of qualifying previous determination applies only to specific information that was the subject of a prior attorney general ruling granted to a district and requires this previous ruling to: (1) address the exact same information or records at issue in the pending request; (2) have been requested by the same district as in the current request; (3) have stated that the information in question may be withheld; and (4) address law, facts, and circumstances that have not changed in the current request. Tex. Att’y Gen. ORD-673 (2001). For example, if a school district previously requested a ruling from the attorney general about Record A and Record B that was requested by Requestor 1, and the attorney general issued a ruling No. 1234-5678 allowing the district to withhold Record A and Record B, then the district may in a subsequent requests for the exact same Record A and Record B rely on this previous determination, ruling No. 1234-5678, so long as no law, fact, or circumstance surrounding Record A and Record B has changed.

In 2015, the attorney general announced a subset of this type of qualifying previous determination known as the *108 PD*, which may be granted to any requesting governmental body, including a school district. If a district requests and is granted a 108 PD, then the district may withhold certain information related to pending criminal actions, as described under Texas Government Code section 552.108(a)(1), in all subsequent requests for the same type of information without having to request new rulings so long as certain procedural requirements are met. To seek a 108 PD, a school district must make a request to the attorney general when an actual request for covered information has been made to the district, and correctly apply the exception to records marked for the attorney general’s review. Once a 108 PD is granted to a district, it may rely on the ruling if it releases at least basic information about an arrested person, an arrest, or a crime within five business days of receiving the request and meets the following requirements:

1. The school district makes a good faith determination that the information at issue relates to the detection, investigation, or prosecution of crime;
2. The release of such information would interfere with the detection, investigation or prosecution of crime;
3. The school district will release at least the basic information from the information at issue (it may release more);
4. The school district will release such information within five business days of receiving the request;

5. The school district will provide the requestor with the required notice form, which describes the requestor's rights and the types of information withheld; and
6. The school district has not previously received a request for the same information from the same requestor after the school district has provided the requestor with the information described above.

Houston Chronicle Pub. Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e., 536 S.W.2d 559 (Tex. 1976) (per curiam); Tex. Att'y Gen. ORD-127 (1976). See also Office of the Tex. Att'y Gen., [Public Information Act Handbook 2020](#), 96-98 (discussing basic information that ordinarily appears on the first page of an offense report and is not excepted from disclosure under Section 552.108).

The second type of qualifying previous determination applies to information or records that were the subject of a ruling granted by the attorney general for all governmental bodies, including a school district, to withhold the covered information. Tex. Att'y Gen. [ORD-684](#) (2009). For example, the attorney general has issued previous determinations in open record decision numbers [ORD-670](#) (2001) and [ORD-684](#) (2009) allowing any governmental body subject to the PIA, including a school district, to withhold or redact the specific information listed in those opinions without seeking a new attorney general's ruling. Attorney general opinion [ORD-684](#) (2009) would allow a district to redact or withhold various personal documents (including W-2, W-9, direct deposit, and military discharge DD-214 forms; fingerprint and other biometric data; and certified agendas and recordings of closed meetings) without seeking a ruling from the attorney general. Attorney general opinion [ORD-670](#) (2001) concerns certain information about peace officers, some of which has now been incorporated into statute.

For a list of all of the attorney general's [previous determinations](#), see the attorney general's website.

13. What is the procedure for submitting a request for an attorney general decision (ruling)?

Except for requests seeking certain information covered by Subchapter J of the PIA, a district must, not later than 10 business days after receiving a requestor's written request for information:

- submit to the attorney general a request for a ruling concerning whether the requested information is allowed to be withheld, including a statement as to which exceptions the district believes apply; and
- notify the requestor in writing that the district wishes to withhold some or all of the requested information and that the district has asked the attorney general for a ruling, along with a copy of the district's request to the attorney general, which is allowed to be redacted to the extent that it may reveal the substance of the requested information.

Tex. Gov't Code § 552.301(d). *See also* Tex. Gov't Code §§ 552.371-.376 (Subchapter J, governing requests for certain contracting information related to contracts with stated or actual expenditures of \$1 million or more and that is in the custody or possession of a contracting entity but not maintained by the district).

If a school district receives from the requestor a written request by U.S. mail and cannot adequately establish the actual date on which the district received the request, the request is considered to have been received by the district on the third business day after the date of the postmark on the properly addressed request. Tex. Gov't Code § 552.301(a-1).

Within a reasonable time, but not later than 15 business days after receiving the requestor's original request, a district must:

- Submit to the attorney general a letter of written reasons as to why it believes the identified exceptions apply; a copy of the original request for information; a signed statement or other evidence of the date that the request was received by the district; and a copy of the information that is responsive to the request, or a representative sample copy if actual responsive information is too voluminous to send to the attorney general.
- Label the copies or representative sample copies to mark the relevant portion or portions of information desired to be redacted or withheld and notate the applicable PIA provisions supporting exception from disclosure.
- Send the requestor a copy of this letter containing written reasons from the district to the attorney general, redacted when necessary to not reveal substance.

Tex. Gov't Code § 552.301(e)-(e-1).

The attorney general must then render a decision in response to the district's request no later than the 45th business day after the attorney general received the request. The attorney general may extend the deadline by 10 business days if the attorney general notifies the district and the requestor during the 45-day period of the reason for the delay. Tex. Gov't Code § 552.306(a).

The attorney general also provides a brief overview of the process of [requesting a ruling](#) on its website.

14. What are examples of exceptions from public disclosure that a district may assert?

All information maintained by a school district is presumed open to the public. To withhold information, the district must show that the information is confidential or may be excepted from disclosure under one of the PIA's exceptions. Tex. Gov't Code §§ 552.002, .021-.022.

Examples of exceptions to disclosure that a district may request from the attorney general include:

- Information confidential under the constitution, by statute, or by judicial decision. Tex. Gov't Code § 552.101.
- Personnel information included in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Tex. Gov't Code § 552.102.
- Information that, if released, would give advantage to a competitor or bidder. Tex. Gov't Code § 552.104.
- Attorney-client communication with the district's attorney or court order of nondisclosure. Tex. Gov't Code § 552.107.
- Private communications of an elected office holder. Tex. Gov't Code § 552.109.
- Internal agency memoranda. Tex. Gov't Code § 552.111.
- Student records. Tex. Gov't Code § 552.114.
- Audit working papers. Tex. Gov't Code § 552.116.
- Certain employees and former employees' addresses, telephone numbers, and family information. Tex. Gov't Code § 552.117. *See* Tex. Gov't Code § 552.024 (election of confidentiality required).
- Employees' social security numbers. Tex. Gov't Code § 552.147(a-1).
- Names of applicants for superintendent, except finalists. Tex. Gov't Code § 552.126.
- Crime victim information. Tex. Gov't Code § 552.132.
- Names of former or current employees or students in a school district who have furnished reports of potential criminal violations. Tex. Gov't Code § 552.135.
- Family violence and trafficking victims shelter information and sexual assault program information. Tex. Gov't Code § 552.138.
- Computer security and infrastructure information. Tex. Gov't Code § 552.139.
- Information that would subject an employee or board member to a substantial threat of physical harm under the specific circumstances pertaining to the employee or board member. Tex. Gov't Code § 552.152.

If the district wishes to withhold requested information or believes it is not permitted to release such information, the district must request an opinion from the attorney general unless the district is relying on a previous determination regarding the exact records at

issue. If the district does not request an opinion from the attorney general, the information is presumed to be public unless there is a legally compelling reason to withhold the information from disclosure. Tex. Gov't Code § 552.301. Compelling reason is determined by the attorney general, subject to judicial review.

15. Where may districts obtain the required notice forms when withholding or redacting information without seeking a ruling from the attorney general, and what do the notices contain?

As mentioned above, under certain provisions of the PIA, a district may automatically redact or withhold information from a requestor without seeking a ruling from the attorney general if the district also provides the requestor the required notification prescribed by the attorney general. *See, e.g.*, Tex. Gov't Code §§ 552.024, .1175, .130, .136, .138. Notice forms are available on the attorney general's website at the [Redacting Public Information webpage](#). The 108 PD notice is available on the attorney general's [List of 552.108\(a\)\(1\) Previous Determinations webpage](#).

The notices explain to a requestor what information governmental bodies are allowed to redact or withhold without a ruling from the attorney general and what the requestor can do to appeal the redactions or withholding to the attorney general.

16. May a district decline to release requested information that involves a third party's interests for the purpose of requesting an attorney general decision?

Yes, for the purpose of requesting an attorney general's decision. If the district receives a request for certain information that implicates the interests of a third party, the district may, but is not required to, decline to release the information pending an attorney general's decision. If release of a third party's information may be subject to the PIA's sections 552.101, 552.110, 552.1101, 552.114, 552.131, or 552.143, the district must make a good faith attempt in writing before the 10th business day after receiving the request to notify that person of the district's request for the attorney general decision. The district must also include a copy of the written request and a statement that the notified party is entitled to submit arguments to the attorney general concerning disclosure so that the notified party may also submit arguments to the attorney general concerning disclosure. Tex. Gov't Code § 552.305.

The attorney general provides a [sample third-party notice](#) on the attorney general's website.

17. What should a district do if it is uncertain whether it may withhold or disclose the information that has been requested?

If a district is uncertain whether it may withhold or disclose information, it is best to seek a ruling from the attorney general or consult its school attorney for specific guidance.

18. May a district ever suspend its compliance with the PIA?

Yes. If a district is impacted by a catastrophe, as defined by the PIA, and follows required procedures, the Act will allow for up to two suspension time periods (a maximum of up to 14 consecutive calendar days) during which compliance with the PIA will not be required. The district must submit a notice of the suspension period or periods to the attorney general's office on a [form provided by the attorney general](#) ("Catastrophe Notice"), and provide notice to the public in a place readily accessible to the public and in each location that the board is required to post notice for a board meeting under the Texas Open Meetings Act. Tex. Gov't Code § 552.233(b)-(f). The attorney general will continuously post on the attorney general's website each submitted notice from the date the office receives the notice for one year. Tex. Gov't Code § 552.233(i).

19. What is the effect of a district's temporary suspension of the PIA?

A request for public information received by a school district during a suspension period is considered to have been received by district on the first business day after the date the suspension period ends. Additionally, the requirements of the PIA related to a request for public information received by the district before the date an initial suspension period begins are tolled until the first business day after the date the suspension period ends. Tex. Gov't Code § 552.233(g), (h).

20. Where may a district get more information about the PIA?

The attorney general is required by the PIA to maintain uniformity in the application, operation, and interpretation of the PIA. Tex. Gov't Code § 552.011. Therefore, the Office of the Attorney General is the primary source of information about the PIA. For more information, see the attorney general's [Open Government Website](#), review the attorney general's Public Information Act Handbook on the [Public Information Act webpage](#), or call the attorney general's Open Government Hotline at 877-673-6839.

Supplemental resources about the PIA are also available in the [TASB Store](#) or [TASB School Law eSource](#), and school district board members and administrators may contact TASB Legal Services at 800.580.5345.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/community/documents/basic-principles-of-pia.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

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