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**Right of Access to
Public Information**

Public information is available, at a minimum, to the public during the ESC's normal business hours. *Gov't Code 552.021*

Availability

Information That
Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 552 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by the board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the ESC.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of the board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the board, on completion of the estimate.
6. A description of the ESC's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which the ESC's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by the board and a statement of general policy or interpretation of general applicability formulated and adopted by the board.
10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by the board.

13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the ESC's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the board is a party.

Gov't Code 552.022

*Investment
Information*

Certain ESC investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

*Security System
Information*

Financial information in the possession of the ESC that relates to the expenditure of funds by the ESC for a security system is public information that is not excepted from required disclosure under the Texas Public Information Act (PIA). *Gov't Code 418.182(b)*

Personal
Information

*Employee /
Board Member*

Each ESC employee, other than a peace officer or security officer, and board member and each former employee and board member shall choose whether to allow public access to ESC-held information relating to the person's home address, home telephone number, emergency contact information, or social security number, or any other information that reveals whether the person has family members. However, an ESC may not require an employee or former employee of the ESC to choose whether to allow public access to the employee's or former employee's social security number.

Employees and board members shall state their choice to the ESC's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the board occurs, or service with the ESC ends. If an employee or board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or board member may make a written request at any time to the personnel officer to open or close the information. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)

*Notice to
Requestor*

If an employee or board member has opted to restrict public access to his or her personal information, the ESC may redact the

	<p>personal information from any information the ESC discloses without the necessity of requesting a decision from the attorney general. <i>Gov't Code 552.024(c)</i></p> <p>If the ESC redacts information under this provision, the ESC shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. <i>Gov't Code 552.024(c-2)</i></p>
Special Rights of Access	<p>An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the ESC that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests. [See DBA] <i>Gov't Code 552.023</i></p>
Information ESC is not Required to Release <i>Commercial Information</i>	<p>The ESC is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the ESC for research purposes, if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as resource material, such as a library book, the ESC is not required to make a copy of the information in response to a request for public information. The ESC shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the ESC. <i>Gov't Code 552.027</i></p>
<i>Request for Information from Incarcerated Individual</i>	<p>The ESC is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility or an agent of that individual, other than the individual's attorney when the attorney is requesting information that is subject to disclosure under the PIA. This section does not prohibit the ESC from disclosing to an incarcerated individual or the individual's agent information that pertains to the individual. <i>Gov't Code 552.028</i></p>
Voluntary Disclosure	<p>The board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. <i>Gov't Code 552.007</i></p>

**Confidential
Information Under
the Public
Information Act or
Other Law**

Information That
May Not Be
Disclosed

Student Records

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. *Gov't Code 552.352*

Information is confidential and excepted from required disclosure if it is information in a student record at an ESC.

“Student record” means information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act (FERPA) of 1974 (20 U.S.C. Section 1232g(a)(4)) [see FL] and information in a record of an applicant for admission to an educational institution, including a transfer applicant.

An ESC may disclose or provide information included in an education record as authorized by 20 U.S.C. Section 1232g or other federal law. [See FL] In addition, a student record shall be made available upon request to ESC personnel, the student, the student’s parents, guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as set forth in federal law (the FERPA), an ESC shall not release personally identifiable information in education records without the written consent of the student’s parents.

An ESC may redact information that constitutes a student record from information disclosed under the PIA without requesting a decision from the attorney general.

If an applicant for admission to an educational institution funded wholly or partly by state revenue, or a parent or legal guardian of a minor applicant to such an educational institution, requests information in the record of the applicant, the ESC shall disclose any information that is related to the application for admission and was provided to the ESC by the applicant.

Gov't Code 552.026, .114 [See EG]

*Employee Social
Security
Numbers*

The social security number of an employee of the ESC in the custody of the ESC is confidential. *Gov't Code 552.147(a-1)*

Evaluations

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the Public Information Act. *Education Code 21.355*

*Credit Card,
Debit Card,
Charge Card,
and Access
Device Numbers*

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the ESC is confidential.

“Access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

The ESC may redact credit card, debit card, charge card, or access device numbers from any information the ESC discloses without the necessity of requesting a decision from the attorney general. The ESC shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

Email Addresses
Confidential

An email address of a member of the public that is provided for the purpose of communicating electronically with the ESC is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release. *Gov't Code 552.137*

Exceptions

This confidentiality does not apply to an email address:

1. Provided to the ESC by a person who has a contractual relationship with the ESC or by the contractor's agent;
2. Provided to the ESC by a vendor who seeks to contract with the ESC or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the ESC in the course of negotiating the terms of a contract or potential contract;
4. Provided to the ESC on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to the ESC for the purpose of receiving orders or decisions from the ESC, or for the purpose of providing public comment on or receiving notices related to an application for a license. A “license” under this section includes a state

agency permit, certificate, approval, registration, or similar form of permission required by law.

The ESC may also disclose an email address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2)

Crime Victims

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault or Abuse, Stalking, or Trafficking of Persons under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

An ESC employee who is a victim under the Crime Victim Compensation Act may elect whether to allow public access to information held by the ESC that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the ESC, signed by the employee, and filed with the ESC before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

Criminal History Records

Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, is confidential and may not be released except to comply with Subchapter C, by court order, or with the consent of the person who is the subject of the information. *Education Code 22.08391*

Criminal history record information obtained by the ESC from the Texas Department of Public Safety may not be disclosed to any person except:

1. The person who is the subject of the information;
2. The Texas Education Agency;

3. The State Board for Educator Certification;
4. The chief personnel officer of the transportation company if the information was obtained under Government Code 411.097(a)(2) with respect to a transportation company that contracts with the ESC to provide student transportation; or
5. By court order.

Gov't Code 411.097(d)(1) [See DBAA]

*Closed Meeting
Recording /
Certified Agenda*

The certified agenda or tape recording of a closed meeting is available for public inspection only under a court order issued in litigation in a district court involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(c); Att'y Gen. ORD 684 (2009)*

*Security
Information*

Except as provided by the Texas Homeland Security Act, Government Code 418.182, information, including access codes and passwords, in the possession of the ESC that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. *Gov't Code 418.182(a)*

The following information is confidential under Subchapter C of the PIA:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of the ESC or of a contractor of the ESC is vulnerable to unauthorized access or harm, including an assessment of the extent to which the ESC's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;
3. A photocopy or other copy of an identification badge issued to an official or employee of the ESC; and
4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log. This does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053. [See EC]

The ESC may disclose the information to a bidder if the ESC determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a

voluntary disclosure for purposes of Government Code 552.007.

Gov't Code 552.139(b), (c)

*Military
Discharge
Records*

A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the ESC on or after September 1, 2003, is confidential for the 75 years following the date it comes into the possession of the ESC. An ESC that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140; Att'y Gen. ORD 684 (2009)*

*Retirement
Eligibility Records*

Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system, are confidential and not subject to public disclosure. This provision applies to records in the custody of the ESC acting in cooperation with or on behalf of the retirement system. An ESC acting in cooperation with or on behalf of the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general.

For purposes of Government Code 825.507, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

Gov't Code 552.0038, 825.507(g)

**Information
Excepted from
Disclosure**

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the ESC. This paragraph does not limit the authority of the ESC to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Confidential by Law

Categories of information that are excepted from disclosure to the public include the following.

Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

Certain Personnel File Information	<p>Information is excepted from public disclosure if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. <i>Gov't Code 552.102</i></p> <p>Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and such dates are excepted from disclosure under Government Code 552.102(a), if the employees' privacy interests substantially outweigh the public interest in the information. <i>Texas Comptroller of Public Accts. v. Att'y Gen'l of Texas, 354 S.W.3d 336 (Tex. 2010) (holding that a newspaper's stated reason for requesting state employees' dates of birth did not outweigh employees' privacy rights)</i></p>
Information Relating to Litigation	<p>Information is excepted from public disclosure if it is information in the custody of the ESC that relates to an employee or officer of the ESC if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. <i>Gov't Code 552.152</i></p>
Information Relating to Litigation	<p>Information is excepted from public disclosure if it is information relating to litigation of a civil or criminal nature to which the ESC is, or may be, a party or to which an officer or employee of the ESC, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the ESC public information officer receives the request. <i>Gov't Code 552.103</i></p>
Information that Advantages Competitors of Bidders	<p>Information is excepted from public disclosure if it is information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. <i>Gov't Code 552.104</i></p>
Certain Information on Real or Personal Property	<p>Information is excepted from public disclosure if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. <i>Gov't Code 552.105</i></p>
Drafts Involving Legislation	<p>A draft or working paper involved in the preparation of proposed legislation is excepted from public disclosure. <i>Gov't Code 552.106</i></p>

Attorney-Client Information	Information is excepted from public disclosure if it is information an ESC's attorney is prohibited from disclosing because of a duty to the ESC under the Texas Rules of Evidence, or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. <i>Gov't Code 552.107</i>
Certain Information from Law Enforcement	Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor is excepted from public disclosure if it is: <ol style="list-style-type: none">1. Information that deals with detection, investigation, or prosecution of crime; and2. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution. <i>Gov't Code 552.108</i>
Private Correspondence of Elected Officials	Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from public disclosure. <i>Gov't Code 552.109</i>
Trade Secrets	A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from public disclosure. <i>Gov't Code 552.110(a)</i>
Certain Commercial and Financial Information	Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from public disclosure. <i>Gov't Code 552.110(b)</i>
Certain Memoranda	An interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the ESC is excepted from public disclosure. <i>Gov't Code 552.111; <u>City of Garland v. Dallas Morning News</u>, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)</i>
Certain Personal Information	Information is excepted from public disclosure if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the following persons have family members: <ol style="list-style-type: none">1. A current or former ESC employee or board member, except as provided by Section 552.024; or

2. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

Gov't Code 552.117

Photograph of
Peace Officer

A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, is excepted from public disclosure unless:

1. The officer is under indictment or charged with an offense by information;
2. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
3. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov't Code 552.119

Testing Items

A test item developed by a state-funded educational institution is excepted from public disclosure. *Gov't Code 552.122*

Certain Library
Records

A record of a library or library system that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from public disclosure, unless the record is disclosed:

1. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
2. To a person with a special right of access under Government Code 522.023; or
3. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

Certain Motor
Vehicle and
Personal
Identification
Information

Information is excepted from public disclosure if the information relates to:

1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

2. A motor vehicle title or registration issued by an agency of this state or another state or country; or
3. A personal identification document issued by an agency of this state, another state or country or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), the ESC may redact motor vehicle or driver license information under this provision from any information the ESC discloses without the necessity of requesting a decision from the attorney general. The ESC shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.130; Att'y Gen. ORD 684 (2009)

Economic
Development
Negotiations

Information is excepted from public disclosure if it is information that relates to economic development negotiations involving the board and a business prospect that the board seeks to have locate, stay, or expand in or near the ESC, if that information relates to:

1. A trade secret of the business prospect; or
2. Commercial or financial information for which it is demonstrated, based on specific factual evidence, that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

Unless and until an agreement is made with the business prospect, information concerning a financial or other incentive being offered to a business prospect by the board or by another person.

After an agreement is made, information concerning a financial or other incentive being offered is no longer exempted from public disclosure if the information concerns a financial or other incentive being offered to the business prospect:

1. By the board; or
2. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the ESC or a reduction in revenue received by the ESC from any source.

Gov't Code 552.131

Computer Network Security	Information is excepted from public disclosure if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. [See Security Information, above] <i>Gov't Code 552.139(a)</i>
Social Security Numbers	The social security number of a living person is excepted from public disclosure. The social security number of a living person other than an ESC employee is not confidential, however. The ESC may redact the social security number of a living person from any information the ESC discloses to the public without the necessity of requesting a decision from the attorney general. <i>Gov't Code 552.147</i>
Crime Victim	Information that would identify or tend to identify an ESC employee who is also a crime victim under Code of Criminal Procedure, Chapter 56, Subchapter B, regardless of whether the employee chooses to restrict public access to the information, is excepted from public disclosure until the third anniversary of the date the crime was committed. <i>Gov't Code 552.132</i>