

# Report to Lake Travis ISD Board of Trustees

Presented by:

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&  
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# Public Information Act

- The Public Information Act (PIA) is a state law adopted in 1973 and now codified at Chapter 552 of the Texas Government Code.
- In the spirit of open government embraced by the District, the PIA creates a legal presumption that all information created, owned, maintained, or received by the District is available for public inspection or release unless specifically excepted from disclosure.
- The Texas Attorney General is empowered to maintain uniformity in application, operation, and interpretation of the PIA.

# Application of the PIA

- The District's receipt of a written request for information triggers the PIA and all its procedures, including a duty to release the requested records, furnish a written estimate of charges, assert exceptions, and/or provide documents to the Attorney General for a decision on whether to release them. Tex. Gov't Code § 552.221; Lake Travis ISD GBAA (Legal); GBAA (Local); GBAA (Exhibit); and GBA.
- While there are some exceptions that allow the District to withhold requested information, the PIA generally does not permit the District to make that decision on its own. The exceptions are found in subchapter C of the PIA.

# Application of the PIA

- Two types of exceptions: mandatory and permissive. Both types require the District to request a determination from the OAG.
  - Mandatory: confidential by law
  - Permissive: the District has discretion to either release or seek a determination requesting the ability to withhold the information unless the requestor agrees to pay to the redaction of information and agrees to pay the redaction fee associated with redacting the information.

# Examples of Mandatory Exceptions:

- Student records (§552.114);
- Personnel information, such as transcripts maintained in a personnel file of a professional school employee (§552.102); and
- Certain personal information of District employees who have opted out of release of information (§552.117).

# Examples of Permissive Exceptions:

- Threatened or pending litigation, which includes administrative proceedings (§552.103); and
- Rule 503 of the Texas Rules of Evidence - Attorney Client Privilege

# Three Times When a Governmental Entity (the District) Does Not Have to Request an Attorney General Decision:

- The Attorney General has made a 'previous determination' in response to the inquiry of the same district over the same records. Tex. Att'y Gen. ORD-673 (2001).
- The records are exempt under FERPA (Family Educational Rights and Privacy Act) because they personally identify a student.
- The 79th legislature enacted a new provision by which a governmental entity may redact social security numbers, without the need to submit the document containing the social security number(s) to the Attorney General for a determination. Tex. Gov't Code §552.147.

# Consequences for Failure to Comply with the PIA

- The release of records that the District could otherwise have withheld;
- Criminal penalties; and
- Civil remedies, including writ of mandamus and suit for declaratory judgment and/or injunction.

# How the District Processes a PIA Request

- The District logs the date the request was received.
- The Director of Communications coordinates the response.
  - **This likely requires coordination between departments and/or campuses.**
- If the record is temporarily unavailable because the District is using it or it has been stored, certify that fact in writing to the requestor and set a reasonable date and time when the information will be available. Tex. Gov't Code § 552.221.

# How the District Processes a PIA Request

- If the request is unclear or voluminous, the District may request clarification. Clarification tolls the deadlines. Tex. Att'y Gen. ORD-663 (1999); Tex. Att'y Gen. OR 2002-1480. If the District cannot determine what is being requested, it may ask the requestor to clarify the request. Tex. Gov't Code § 552.222.
- If a large amount of information has been requested, the District may ask (but not require) the requestor to narrow the scope of the request. Tex. Gov't Code § 552.222.

# How the District Processes a PIA Request

- The District and, depending on the request and/or other factors, the District's counsel reviews the documents and decide whether to submit the request to the Attorney General for a determination.
- If the District seeks a determination from the Office of the Attorney General ("OAG"), it must do so and state the exceptions that would prohibit release of the information *by the end of the 10th business day* following receipt of the request. Tex. Gov't Code § 552.301(b).

# How the District Processes a PIA Request

- The District must notify the requestor of the request for an Attorney General determination.
- In addition, before the 15th business day after receiving the request, the district must submit to the Attorney General and copy the requestor (except the attachments):
  - written comments stating the reasons why the exceptions apply;
  - a copy of the written request;
  - a signed statement as to the date the request was received or evidence sufficient to establish that date;
  - a copy of the requested information (or, if voluminous, representative samples); and
  - marks or labels on the information itself to indicate which exceptions apply to which parts. Tex. Gov't Code § 552.301(e).

# How the District Processes a PIA Request

- All public information is released by the District within ten business days, subject to the cost estimate and bond provisions as set forth below.
- A copy of the request and all supporting materials including documentation reflecting the timeline of receipt and delivery of the request is maintained.
- If a request for a determination is made, the District's receipt of a determination from the OAG triggers a 10 business day deadline to release the public records; notify the requester of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or notify the requester of the district's intent to challenge the decision in court.

# Examples of PIA Requests

- A simple, straightforward request for information clearly within the public domain may be filled quickly and without the need for a determination from the OAG.
  - Example: A request for a copy of the student directory. A student directory contains only public information.

# Examples of PIA Requests

- Whereas, a request for the personnel records of an employee requires careful review and, most likely, a request for a determination from the OAG. While some of the information contained within a personnel file is public information, certain information is not.
  - Example: A transcript from an institution of higher education maintained in the personnel file of a professional public school employee is excepted from disclosure, except that the disclosure of the degree obtained or the curriculum on a transcript in the personnel file of an employee is not excepted from disclosure.

# Examples of PIA Requests

- A request for information requiring multiple layers of review are the most challenging for the District.
  - Example: A request for a copy of the District's emergency handbook. The emergency handbook is tailored on each campus and department, as applicable. Consequently, the District must search several different areas, which is challenging and time-consuming. Finally, the handbook contains confidential information which must be submitted to the OAG for a determination.

# Charges

- The PIA, Texas Administrative Code, District policy GBAA (Local) and GBAA (Exhibit) set forth the parameters and amounts of charges.
  - If the total cost to produce the requested information will exceed \$40, the District must send an itemized statement of estimated charges to the requestor (presumably within 10 business days of receipt of the request) that meets all the elements of 1 TAC § 111.67(a). Tex. Gov't Code § 552.2615.
  - If the requestor does not respond within 10 business days, the request is considered withdrawn.
  - If later calculations reveal that the original estimate was off by 20% or more, the District must send an updated estimate. Tex. Gov't Code § 552.2615(c); 1 Tac § 111.67(b).

# Charges

- Generally, the District may charge for copies as follows:
  - \$0.10 to copy each page after the 50th page that contains information, front or back. Note: It is permissible to charge for every page, from the very first page copied. However, District policy sets forth charges beginning at page 51.
  - In some instances, the District may charge for personnel time at a rate of \$15 per hour or overhead time at 20% of personnel costs. 1 TAC § 111.63(e).
  - Additional rule-based charges may be made for non-standard copies (tapes, computer disks, microfilm, or paper larger than legal size).
    - \* Programming time may be charged at \$26 per hour.

# Charges

- Supplies and shipping charges may be charged at cost.
- The District may require an advance payment (50% deposit or a full-amount “bond”) for the cost of copies when charges will exceed \$100. Tex. Gov’t Code § 552.263; 1 TAC § 111.67.
- When a requestor owes more than \$100 on previous requests, the District may require payment as a condition of preparing copies in response to a new request. 1 TAC § 111.67(f).

# Requestor's Complaint of Overcharge

- The requestor may complain of overcharge within 10 days of payment. If the district receives a letter claiming it overcharged, the district must respond in writing within 10 days to the Office of the Attorney General. 1 TAC § 111.68.

# Inspection/Access to Information

- The PIA grants the public the right either to *receive copies* or to *inspect* public records. Tex. Gov't Code §§ 552.221(b) (1), (c), (d); 552.225; 552.271; 552.272.

# Inspection/Access to Information

- Despite the fact that the cost to the District of preparing for and permitting inspection typically exceeds the cost of copying, the District may not ordinarily recoup its costs – or, indeed, charge anything. Tex. Gov't Code §§ 552.271; 552.272; 1 TAC § 111.65.
  - However, the District may charge \$0.10 per page for each page that contains both public and confidential information and which requires redaction of the confidential information.
  - Additionally, the District may charge when the requested records are older than 5 years and take more than 5 hours to compile, or the requested records completely fill 6 archival boxes and take more than 5 hours to compile. 1 TAC § 111.65.

# The District's Complaint Procedures

- District policy sets for the procedures for three types of complaints:
  - (1) Student and Parent Complaints (see FNG Legal & Local);
  - (2) Employee Complaints (see DGBA Legal & Local); and
  - (3) Public Complaints (see GF Legal & Local).
- The District has not received any complaints from the public or employee complaints in the time period made the subject of this report (August 1, 2005 through March 24, 2006). Consequently, this report will only examine the process for student and parent complaints.

# The District's Complaint Procedures

- **FNG applies to all complaints or grievances from students or parents, with the exception of certain specific complaints enumerated in FNG (Local).**
- **The purpose of policy FNG (Local) is to secure, at the lowest possible administrative level, prompt and equitable resolution of student and parent complaints.**
- **The terms “complaint” and “grievance” have the same meaning in the District’s policy described herein.**
- **The term “days” means District business days in the policy described herein.**
- **The Board encourages students and parents to discuss their concerns and complaints through informal conferences with the appropriate teacher, principal, or administrator.**

# The District's Complaint Procedures

- The District has a three-level process for processing formal FNG complaints:
  - (1) Level I;
  - (2) Level II; and
  - (3) Level III.

# Level I Complaints

- (1) Complaint forms must be filed within ten days of the date the student or parent first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
- (2) With the lowest level administrator who has authority to remedy the alleged problem.
  - If the alleged problem (such as matter of policy) can only be considered by a Level II administrator, then Level I may be waived by the District.
  - If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Three following the procedure, including deadlines, for filing the complaint form at Level One.

# Level I Complaints

- If the complaint is not filed with appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.
- The administrator shall hold a conference with the student or parent within ten after receipt of the written complaint.
- The administrator shall have five days following the conference to provide the student or parent a written response.

# Level II Complaints

- After seeking resolution at Level One of supervision, individuals who still feel that their concerns or issues have not been appropriately addressed should make an appointment to visit with the appropriate assistant superintendent.
- The request must be made within five days after receipt of a response or, if no response is received, within five days of the response deadline at Level One.

# Level II Complaints

- The student or parents shall submit a written complaint that includes:
  - (1) The student's or parent's signed statement of the complaint;
  - (2) Any evidence in its support;
  - (3) The solution sought; and
  - (4) The date of the conference at Level One.

# Level II Complaints

- The Assistant Superintendent is not required to consider any documentation not submitted or issues not presented at Level One.
- The Assistant Superintendent or designee shall hold a conference within ten days after the appeal notice is filed.
- The Assistant Superintendent shall consider only the issues and documents presented at Level One and identified in the Level Two appeal request.
- The Assistant Superintendent or designee shall have five days following the conference to provide a written response.

# Level III Complaints

- If the student or parent is not satisfied at Level Two, then he or she may appeal to Level Three within five days of the response (or, if no response is received, within five days of the response deadline).
- The Superintendent shall determine whether the issue should be placed on the Board's agenda or whether or not it could be productive to pursue resolution in a meeting with the Superintendent.
- The Superintendent is not required to consider documentation not previously submitted or issues not previously presented at Level Two.

# Level III Complaints

- Any issue not resolved at the Superintendent level may be appealed to the Board.
  - (1) Consideration by the Board will be made at their regularly scheduled meeting;
  - (2) The request for appeal must be made in writing to the Superintendent;
  - (3) The request for appeal must include the remedy being sought;
  - (4) The request must be filed within five days following receipt of a response (or, if no response is received, within five days of the response deadline);

# Level III Complaints

(5) The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the Board's agenda;

(6) The Superintendent or designee shall provide the Board with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the student or parent or the administration; and

(7) The Board is not required to consider documentation not previously submitted or issues not previously presented.

# Level III Complaints

- The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

# Level III Complaints

- At Level Three:
  - The presiding officer may set reasonable time limits and guidelines for the presentation.
  - The Board shall hear the complaint and may request that the administration provide an explanation of the decisions at the preceding levels.
  - A record of the Level Three presentation, including the presentation by the student or parent or the student or parent's representative, any presentation from the administration, and questions from the Board with responses.

# Level III Complaints

- At Level Three:
  - The presentation shall be recorded by audio recording, video/audio recording, or court reporter.
  - The Board may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting.
  - If the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled Board meeting, the lack of response by the Board upholds the administrative decision at Level Two.

# PIA Requests: Quantity

August 1, 2005 to March 24, 2006

- 947 PIA Requests from 48 requestors
- 40 requestors made single requests (0.1%)
- 5 requestors made two requests (0.2%)
- One requestor made six requests (0.6%)
- One requestor made 31 requests (3.3%)
- One requestor made 860 requests (90.8%)

# PIA Requests: Human Resources

August 1, 2005 to March 24, 2006

- 63,000 pages of documents copied in response to requests \*
- 750 staff work hours \*
- \$215,000 in associated legal costs to comply with PIA (to date)
- \$322,000 projected estimated legal cost to comply with PIA during 2005-2006 (\$26,876/month)

\* Approximate

# PIA Requests: Recovered Expenses

- District Policy GBAA (Exhibit)
  - \$0.10/page for copies exceeding 50 page
- PIA Guidelines
  - \$15/hour for labor when copies exceed 50 pages
  - Overhead is 20% of total amount for copies and labor charges combined.
- The District has provided requestors with a total of \$10,554.84 in estimated charges
  - Requestors have accepted \$166.05 (.02%) of the charges to obtain the documents.
  - All other documents are produced for the requestor to review; when the requestor modifies the request to review documents, payment is not required.

# Comparison with Houston ISD

- Houston ISD: 200,000 students  
(40 times larger than Lake Travis ISD)
  - 870 PIA requests during 2004-2005 school year
- Houston ISD Budget: \$1.3 Billion
- Lake Travis ISD: 947 PIA requests Aug. 1, 2005 thru March 24, 2006
- Lake Travis ISD Budget: \$59 Million

# FNG

## Grievances/Complaints: Quantity

August 1, 2005 to March 24, 2006

- 52 formal complaints from five individuals
  - Two individuals made a single complaint
  - One individual made three complaints
  - One individual made 47 complaints
- \* **The District has not received any public complaints (Policy GF) or employee complaints/grievances (Policy DGBA) since August 1, 2005**

# FNG

## Grievances/Complaints: Financial Implications

August 1, 2005 to March 24, 2006

- \$41,274 in associated legal costs to date to address Level I, II and III complaints
- \$61,912 projected estimated associated legal costs to address FNG Level I, II and III complaints during 2005 – 2006 fiscal year (\$5,159/month)

# Informal Inquiries

August 1, 2005 to March 24, 2006

- No definitive record for this category is maintained by the district. However, the estimated number of requests received is 75–100.
- District Policy and the Texas PIA do not require the district to respond to questions of this nature.
  - Administrative staff use discretion in determining whether the district should respond to a request based on reasonable professional, ethical and legal standards.

# Other Complaints Filed Outside of District

- Other legal and administrative proceedings on behalf of the District have resulted in a total cost of \$176,671 in legal fees and expenses.
- The 2005–2006 fiscal year projected estimated legal costs to address these matters is \$198,754 (\$16,562/month).

# Summary of Financial Implications

- \$433,015 actual (to date) costs incurred to address PIA, Level I, II, and III complaints, and other complaints outside of District.
- \$649,523 (\$54,127/month) projected estimated associated legal costs to address PIA, Level I, II, and III complaints and other complaints beyond district level.

# The Interrelation of Matters

- Some of the costs are increased due to the multiple layers of review that are necessitated by the interrelation of matters.

**Implications and Effects of Requests  
for Information and Complaints on  
the District's Ability to Fully  
Support the Core Commitments  
Adopted by the Board of Trustees**

# Commitment to the Spirit and Intent of the PIA & Access to a Legitimate Complaint Process

- 1,000 PIA Requests
- 63,000 pages of documents copied in response to requests (approximate)
- 52 Level I, II and III FNG complaints
- Zero incidents of the District knowingly disregarding or failing to comply with PIA or complaint policy

# Financial Implication: Projected Impact on Budget

- \$650,000 (fiscal year 2005 – 2006)
- Could fund wholly or in combination:
  - 15 teachers
  - Expanded academic program offerings
  - Instructional materials
  - Salary adjustments for teachers and staff
- Effectively neutralizes LTEF contribution in 4 months
  - (\$56,000/month)

# Human Resource Implications

- Work productivity
- Emotional impact
- Potential turnover of staff

# Social Implications

- Democratic ideals, access to government
- Civic responsibility to find balance between accessing district and not compromising District's ability to deliver on its promise to provide exemplary educational experiences for the students it serves.

# Political Implications

- Avoiding misinterpretation of District motives and actions in its attempt to provide a format for responsible public discourse.
- Difficulty in sufficiently educating community and beyond to allow for thoughtful, intelligent public discourse toward a reasonable public policy solution that ensures access to open, transparent government while protecting the ability to successfully fulfill their mission on behalf of the people we serve.

# Efforts to Streamline The District's Complaint Processes

- Level I, Level II and Level III Complaints
  - Level I may be waived by the District
  - A number of Level I and Level II matters have been considered by one administrator, reducing the amount of time and human resources implicated while ensuring full compliance with the complaint procedures and the District's goal of providing a responsive forum for the consideration of complaints.

# Efforts to Streamline The District's PIA Processes

- PIA requests are processed within the district by the Director of Communications
  - Funnels resources
  - Centralized communications and document controls
  - Centralized communications with counsel, as needed
  - Tracks time and resources utilized

# Efforts to Streamline The District's Response to Letters of Inquiry

- One administrator has been tasked with the review of all letters of inquiry
  - Administrator may pass inquiry on to appropriate personnel
  - Administrator may respond to one or a number of inquires in one setting
  - Administrator may consolidate response to multiple letters sent to multiple District employees
- This process has:
  - Reduced the number of personnel involved as well as the time spent on redundancy

# Public Information Act: Community Awareness

- District Web Site
  - Texas PIA
  - Responsibilities of requestors and district as outlined by Attorney General
  - Contact information and Guidelines for submitting a request
- Monthly Reports to Board
  - Received requests
  - Post on Web site

# Commitments and Understandings

- Continue to respect and abide by the law and Board policy
- Seek your guidance as elected officials responsible for holding the public's trust and providing for wise stewardship of district resources
- Recognize the proper role of the Board in leading discussion on public policy issues

***Lake Travis Independent  
School District***