

New Law Allows Districts to Designate Specific Addresses for PIA Requests

During the most recent Legislative Session, the Texas Government Code was amended in a manner that allows Districts to designate a single electronic mail address and a single mailing address for receiving written requests for public information. The new law will go into effect on September 1, 2019, and applies only to PIA requests received on or after that date.

Districts may want to consider implementing this new provision of the Government Code in order to help ensure that PIA timelines are met and records requests are not lost when they are sent to individual District employees. If a District opts to designate single electronic and mailing addresses for PIA requests, then the public must be notified of that fact by posting the addresses on the district's website. The District should also state there that it will only respond to requests for information sent to the designated email and mailing addresses. If there is an inquiry about the procedures for requesting public information, the District must also provide the designated electronic mail and mailing addresses. So long as the District follows these procedures, then it is not required to respond to written requests for public information sent somewhere other than one of those addresses, unless the request is delivered by hand.

The new law also states that the Attorney General is required to create a new public information request form that allows a requestor to specify that the District can exclude information it has determined to be confidential or subject to an existing exception to disclosure. If the District allows requestors to use that form, then the form must also be posted on the District's website and Requestors must be advised to use the form for all requests. It is the Legislature's hope that allowing a requestor this option will cut down on the number of requests for determinations that have to be sent by Districts to the Attorney General's office.

Another provision of the bill has new provisions regarding the retention of public information that was created, received, and/or maintained on private devices. This pertains to District information that is stored on personal electronic devices, such as cell phones and laptops. The amended Government Code specifies that a "temporary custodian" -- an officer or employee of the District who, in the transaction of official business, created or received public information that had not been provided to the public information officer -- must forward or transfer such information to the District so it can be preserved, or must preserve the information in its original form on the privately owned device in accordance with the District's records retention rules. This means that employees and District officials should be notified not to destroy texts or emails stored only on their phone if they contain information related to official business of the District until the information is transferred to District files. For example, this would include texts with parents and students related to classwork, extracurricular activities and emails between co-workers and District officials related to District business.

School districts that choose to designate single electronic and mailing addresses for PIA requests, and to use the forthcoming AG form for records requests, will want to review and revise their local GBAA policies. Walsh Gallegos can assist in reviewing your policies to ensure compliance with this new legislation. Attorneys can also assist with notification and training regarding the new provisions related to "temporary custodians." Contact Walsh Gallegos attorneys toll free at the numbers listed below:

Amarillo Office – 888-622-6864
Austin Office – 800.252.3405
Houston Office – 888.565.6864
Irving Office – 800.231.4207
Rio Grande Valley Office – 866.770.6864
San Antonio Office – 800.232.9169
Albuquerque Office – 800.771.6864

This email update was prepared by Walsh Gallegos attorneys Elizabeth Neally and Trilby Argubright and is provided as a benefit of the Walsh Gallegos retainer program. The information in this email was created by Walsh Gallegos Treviño Russo & Kyle P. C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.