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OPEN RECORDS DIVISION

GOVERNOR GREG ABBOTT

June 9, 2016

Justin Gordon
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

COPY

Re: Open Records Letter Ruling Request
OOG ID#: 16-149

Dear Mr. Gordon:

On May 25, 2016, the Office of the Governor (the "OOG") received a request under the Public Information Act (the "PIA") from Mr. Isaiah Smith.¹ A copy of the request is attached as Exhibit A.

The OOG asserts information responsive to this request is excepted from disclosure under the Public Information Act ("PIA"). Specifically, the OOG invokes all of the exceptions provided by, and the exceptions incorporated into, sections 552.101 through 552.156 of the PIA.

Pursuant to section 552.301(a) of the PIA, this letter is submitted in order to seek a decision as to whether the exceptions apply. To assist in your review, the OOG will provide written comments and the responsive documents, or a representative sample of the responsive documents, not later than the 15th business day from the date the request was received.

Should you need additional information, please feel free to contact me at 512-463-8470 or via email at publicrecords@gov.texas.gov.

Sincerely,

Jessica Vu
Assistant General Counsel
Office of Governor Greg Abbott

cc: Isaiah Smith
P.O. Box 163411
Fort Worth, Texas 76161
iscampaign@usa.com

¹ For purposes of calculating deadlines, please note the OOG was closed in observance of Memorial Day on May 30, 2016.

EXHIBIT A

Jessica Vu

From: Isaiah Smith Campaign <iscampaign@usa.com>
Sent: Tuesday, May 24, 2016 8:52 PM
To: Public Records
Subject: Re: Open Records Request
Attachments: SPIR-2016-TX-0018.pdf

May 24th, 2016
Office of the Texas Governor,
Please see my attached open records request.
Respectfully,
Isaiah X. Smith
Isaiah Smith Campaign
P.O Box 163411
Fort Worth, Texas, 76161
<http://www.isaiahxsmith.com/>

Office of the Governor

ID: SPIR-2016-TX-0018

Public Information Request

General Counsel Division

P.O. Box 12428

Austin, TX 78711

publicrecords@gov.texas.gov

Sent via: Electronic mail

May 24th, 2016

Re: Open Records Request

Office of the Texas Governor,

Under the Texas Public Information Act, §6252-17a et seq., I am requesting an opportunity to obtain copies of public records that the Office of the Texas Governor has in their possession. I am hereby requesting a copy of the following records:

1. The "names" as to all of the information that the Texas Governor's Office and individuals employed with the Texas Governor's Office have received from all state governmental bodies and from the federal government of the United States of America that is in regards to, pertaining to and about the federal government's **"Dear Colleague Letter on Transgender Students."**
2. Information that the Texas Governor's office and individuals employed with the Texas Governor's Office have collected and maintained that is regarding transgender ("transgendered") and transsexual individuals using the restroom that aligns with their lived "gender identity."
3. A copy of all written communication that the Office of the Texas Governor and individuals employed with the Texas Governor's Office have maintained, sent and has received that is in regards to the federal government's **"Dear Colleague Letter on Transgender Students"** and on the issues of transgender ("transgendered") and transsexual individuals using a "facility" that aligns with their lived gender identity.
4. A copy of all "personal" emails and text messages that members of the Office of the Texas Governor used in their official capacity, in which they have sent and received, that is in regards to the issue of the federal government's **"Dear Colleague Letter on Transgender Students"** and on the issues of transsexual, and transgender (transgendered") individuals using a restroom and a locker-room that best fits their lived gender identity. This request is including but is not limited to the terms and communication that involves men using women restrooms and women using men restrooms.

5. A copy of all letters, emails, written statements, data and all other written information that the Office of the Texas Governor has taken, maintained and collected that is in regards to the federal government's **"Dear Colleague Letter on Transgender Students."**
6. A copy of all written directives, letters, emails and all other written communication that the Texas Governor's Office has sent to state governmental bodies regarding the federal government's **"Dear Colleague Letter on Transgender Students."**
7. A copy of all letters, emails, and all other written communication that Texas Governor's Office has received from public educational institutions and private educational institution in the State of Texas that is in regards to and pertaining to the federal government's **"Dear Colleague Letter on Transgender Students."**
8. A copy of all written communication between the Texas Office of the Governor and the federal government that is in regards to and pertaining to the federal government's **"Dear Colleague Letter on Transgender Students."**

Please note that virtually all of the information that is in a governmental body's physical possession constitutes public information that is subject to the **Act. Id. § 552.022(a)(1)**; see also **Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988)**. The Act also is applicable to information that a governmental body does not physically possess, if the information is collected, assembled, or Page 2 of 3 maintained for the governmental body, and the governmental body owns the information or has a right of access to it. **Gov't Code § 552.002(a)(2)**; see also **Open Records Decision No. 462 at 4 (1987)**.

I would like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the way in which the government operates, communication that was sent and received from the Office of the Texas Governor, equal access for individuals who are transsexual and transgendered, the State of Texas compliance with federal law, the federal government, sex discrimination and et cetera. Please also note that I strongly believe that it is vitally important for citizens to monitor the actions and the behavior of the government for the purpose as to ensuring accountability.

The Texas Public Information Act requires that you "promptly produce" the requested records unless, within 10 days, you have sought an Attorney General's Opinion. As provided by the Texas Public Information Act, I will expect your response within ten (10) business days. Twenty (20) days if my request requires substantial programming or manipulation of data. **See Tex. Gov't Code Ann. Secs. 552.221(d) and 231(c)**. If you expect a significant delay in responding to this request, please contact me with information about when I might expect copies or the ability to inspect the requested records. You can reach me via email at: iscampaign@usa.com.

If you deny any or all of this request, please provide a written explanation for the denial and cite each specific statutory exemption(s) you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If your "governmental body" wants to seek the Attorney General's Opinion regarding any of our request, I ask that you immediately notify me and then seek a formal decision from the Texas Attorney General not later than ten (10) calendar days from your receipt of this request, as required by the Texas Public Information Act. **See Sec. 552.301**. I would then

ask your governmental body to release to me all of the items in which you have not sought the Attorney General's Opinion on. See Sec. 552.301, 302; see also Open Records Decision No. 664 (2000)(if a governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

As you may already know that violation of the open records law can result in a fine of up to \$1,000, imprisonment of up to six months, or both. See Tex. Gov't Code Ann. Sec. 552.353(e). Litigation costs and reasonable attorney fees may also be assessed against you. See Sec. 552.323.

I would prefer to receive all of the requested information to me by email. My email address is at: iscampaign@usa.com. You can also send me correspondence by mail at the following mailing address:

Isaiah X. Smith
Isaiah Smith Campaign
P.O Box 163411
Fort Worth, Texas, 76161

Respectfully,

Isaiah X. Smith

Isaiah Smith Campaign
P.O Box 163411
Fort Worth, Texas, 76161
www.isaiahxsmith.com