



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 16, 1998

Ms. Cheryl Elliott  
General Counsel  
Texas Southern University  
3100 Cleburne Avenue  
Houston, Texas 77004

OR98-1466

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116466.

Texas Southern University (the "university") received a request for "directory information (name, address, and phone number) on all first year students during the academic years of 1995-1996 and 1996-1997 at Thurgood Marshall School of Law . . . [and] the same directory information on all second year students during the 1996-1997 and 1997-1998 academic years." You contend that this information is excepted from disclosure under section 552.102 of the Government Code.

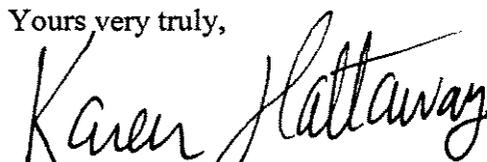
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 excepts information in personnel files only if it meets the test articulated under section 552.101 for common-law invasion of privacy. *Hubert v. Harte-Hanks Tex. Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Although the requested information is not contained in personnel files, we will consider whether the information is protected by the common-law right to privacy.

The common-law right to privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). We have consistently held that home addresses and telephone numbers are not protected from disclosure by a right of privacy because such information cannot be considered "intimate." *See, e.g.*, Open Records Decision Nos. 455 (1987), 318 (1982). Accordingly, we conclude that the requested information is not excepted from disclosure under section 552.101 in conjunction with the common-law right to privacy.

We note that the release of the requested information must be in accordance with the Family Educational Rights and Privacy Act ("FERPA"), title 20 of the United States Code, section 1232g. FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases identifying information in a student's records without consent. 20 U.S.C. § 1232g(b)(1). However, "directory information" is not subject to the FERPA confidentiality provisions. *Id.* § 1232g(b)(1). Directory information is defined as the type of information contained in the education record of a student the release of which would not be considered harmful or an invasion of privacy. 34 C.F.R. § 99.3. Directory information "includes but is not limited to" student name, address, telephone listing, date and place of birth, major field of study, participation in official recognized activities and sport, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended. *Id.* Directory information is subject to release after compliance with notice requirements that provide parents, or students who have reached age eighteen, the right to object to the release of directory information. *Id.* § 1232g(a)(5)(B). Because the requested information falls within the definition of directory information, the information must be provided to the requestor once the university has complied with the notice provisions of 20 U.S.C. 1232g(a)(5)(B). See 20 U.S.C. § 1232g(a)(5)(A); 34 C.F.R. § 99.3; Open Records Decision No. 242 (1980).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division