



November 2, 2001

Ms. Belinda R. Perkins
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

OR2001-4873A

Dear Ms. Perkins:

You had ask whether certain information was subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 153909.

In responding to your request for a decision, we issued Open Records Letter No. 2001-4873 (2001), which we now note contains an erroneous factual statement. Where this office determines that a factual error is made in the decision process under sections 552.301 and 552.306, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Thus, this decision replaces Open Records Letter No. 2001-4873.

The Teacher Retirement System of Texas ("TRS") received a request for the names, home phone numbers, and home addresses of all 2000-2001 Krum I.S.D. employees. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. You advise that TRS does not have the requested home phone numbers. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In this regard, we note that section 825.507 of the Government Code provides in pertinent part:

(a) Records of a participant that are in the custody of the [Teacher's Retirement System] . . . are confidential and are not subject to public

disclosure in a form that would identify an individual and are exempt from the public access provisions of Chapter 552, except as otherwise provided by this section.

....

(f) This section does not authorize the retirement system to compile or disclose a list of participants' names, addresses, or social security numbers unless the executive director determines that a compilation or disclosure is necessary to administer the retirement system.

Act of May 28, 2001, 77th Leg., R.S., S.B. 273 (to be codified at Gov't Code § 825.507). The information you submitted to us for review falls within the confidentiality provision set forth in section 825.507 of Government Code. Because there is no indication that any of the stated exceptions apply, we conclude that TRS must withhold the Teacher Retirement System records you submitted to our office.

Pursuant to section 552.301 of the Government Code, TRS may rely on this ruling as a "previous determination" regarding TRS participants' identifying information. Accordingly, unless the executive director makes the determination described in subsection (f) of section 825.507; TRS must withhold a list of participant names, addresses, and social security numbers. TRS does not need to seek a decision from this office for future requests for this information as long as the elements of law, fact, and circumstances do not change so as to no longer support this conclusion. *See* Open Records Decision No. 673 (2001).

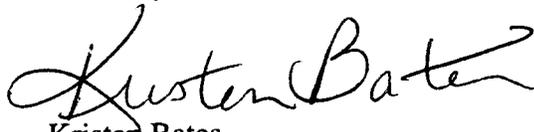
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss of the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Kristen Bates". The signature is written in black ink and is positioned above the typed name.

Kristen Bates
Assistant Attorney General
Open Records Division

KAB/seg

Ref: ID# 153909

c: Mr. Chris Gann
5323 Spring Valley Road, Suite 230
Dallas, Texas 75240