



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2003

Mr. Dan Junell
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701-2698

OR2003-6936

Dear Mr. Junell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 188602.

The Teacher Retirement System of Texas (the "system") received a request for "a copy of the final Designation of Joint Beneficiaries" for a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision" and encompasses information made confidential by statute. Section 825.507 of the Government Code provides in relevant part:

(a) Records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency acting in cooperation with or on behalf of the retirement system are confidential and 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.

(b) The retirement system may release records of a participant, including a participant to which Chapter 803 applies, to:

- (1) the participant or the participant's attorney or guardian or another person who the executive director determines is acting on behalf of the participant;
- (2) the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary;
- (3) a spouse or former spouse of the participant if the executive director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;
- (4) an administrator, carrier, consultant, attorney, or agent acting on behalf of the retirement system;
- (5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs to share the information to perform the purposes of the retirement system, as determined by the executive director;
- (6) a person authorized by the participant in writing to receive the information;
- (7) a federal or state criminal law enforcement agency that requests a record for a law enforcement purpose;
- (8) the attorney general to the extent necessary to enforce child support; or
- (9) a party in response to a subpoena issued under applicable law if the executive director determines that the participant will have a reasonable opportunity to contest the subpoena.

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(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

Gov't Code § 825.507(a)-(b), (g).

The system states that the submitted information relates to a participant in the retirement system. Based on this representation and our review of this information, we find that section 825.507(a) is applicable to the records at issue. The system also informs us that the

requestor has neither asserted that any of the provisions of section 825.507(b) is applicable in this instance nor provided any information that would allow the system to determine that any of these provisions applies. We therefore conclude that the requested information is confidential under section 825.507 and must therefore be withheld pursuant to section 552.101. As we are able to make this determination, we need not consider the system's other arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

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).

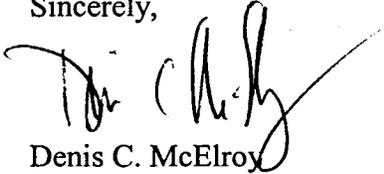
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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 at the Texas Building and Procurement 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. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Denis C. McElroy
Assistant Attorney General
Open Records Division

DCM/lmt

Ref: ID# 188602

Enc. Submitted documents

c: Ms. Thelma J. Gore
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(w/o enclosures)