



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2005

Ms. Therese Sternenberg
Texas Guaranteed Student Loan Corporation
P. O. Box 83100
Round Rock, Texas 78683-3100

OR2005-04352

Dear Ms. Sternenberg:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 224550.

The Texas Guaranteed Student Loan Corporation (the "corporation") received a request for information related to a former employee. You state that the corporation sought a clarification of the request. You state you will release some information but claim the submitted 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.

Initially, we address your representation that the corporation did not submit its request for a ruling within ten business days as required by section 552.301 of the Government Code. The corporation received the original request for information on February 22, 2005. You state that the corporation sought a clarification of the request on February 24, 2005. In Open Records Decision No. 663 (1999), this office determined that during the interval in which a governmental body and a requestor communicate in good faith to narrow or clarify a request, the Act permits a tolling of the statutory ten business day deadline imposed by section 552.301. However, a governmental body's request for clarification or narrowing does not give that governmental body an additional ten full days from the date the requestor responds to the clarification request. Rather, "the ten-day deadline is tolled during the process but resumes, upon receipt of the clarification or narrowing response, on the day that the clarification is received." ORD 663 at 5. In this instance, the corporation received a response from the requestor on March 11, and requested a ruling from this office on March 15, 2005. Accordingly, we conclude the corporation's request to this office for a ruling was timely.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and encompasses information made confidential by other statutes. You raise section 552.101 in conjunction with section 57.11 of the Education Code. Section 57.11(d) provides that “[s]tudent loan borrower information collected, assembled, or maintained by the corporation is confidential and is not subject to disclosure under Chapter 552, Government Code.” Educ. Code § 57.11(d). Based on your representations and our review of the submitted information, we agree that the student loan borrower information you have marked is confidential under section 57.11(d). We therefore conclude the corporation must withhold the marked student loan borrower information pursuant to section 552.101 of the Government Code.

One submitted document includes the personal home and cellular telephone numbers of another corporation employee. Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. *See* Gov’t Code § 552.117(a)(1). We note that section 552.117 also encompasses a personal cellular telephone number, provided that the cellular phone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (Gov’t Code § 552.117 not applicable to cellular mobile phone numbers paid for by governmental body and intended for official use). However, information subject to section 552.117(a)(1) may not be withheld from disclosure if the current or former employee made the request for confidentiality under section 552.024 after the request for information at issue was received by the governmental body. Whether a particular piece of information is public must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You provide supporting documentation showing that, prior to the receipt of the request, the employee at issue timely elected to keep his telephone numbers confidential. Thus, the corporation must withhold the marked home and cellular telephone numbers under section 552.117(a)(1).

In summary, the corporation must withhold the marked student loan borrower information under section 552.101 of the Government Code. The corporation must withhold the marked home and cellular telephone numbers under section 552.117 of the Government Code. The remaining submitted information must be released.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/jev

Ref: ID# 224550

Enc. Submitted documents

c: Ms. Teresa Beardmore
c/o Ms. Therese Sternenberg
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(w/o enclosures)