ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2005

Mr. David Anderson
General Counsel
Texas Education Agency
1701 N. Congress Ave.
Austin, Texas 78701-1494

OR2005-08371

Dear Mr. Anderson:

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# 232192.

The Texas Education Agency (the "TEA") received a request for the charter of a particular charter school. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.[1] We have considered the exception you claim and reviewed the submitted information.

The submitted information contains social security numbers. Section 552.147 of the Government Code[2] provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the TEA must withhold the social

[1]TEA informs us that the U.S. Department of Education claims a right of access to the requested information. However, TEA states that, in this instance, the U.S. Department of Education does not have a right of access to the information at issue. The question of whether the precise information at issue is accessible is a question of fact. This office cannot resolve factual issues in the opinion process. See Open Records Decision 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). We therefore must rely on a governmental body's representations with regard to such issues, unless the contrary is clearly shown as a matter of law. See Open Records Decision No. 564 (1990).

[2]Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

security numbers contained in the submitted information under section 552.147.[3] As our ruling on this issue is dispositive, we need not address your remaining argument.

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); *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 Office of the Attorney General at (512) 475-2497.

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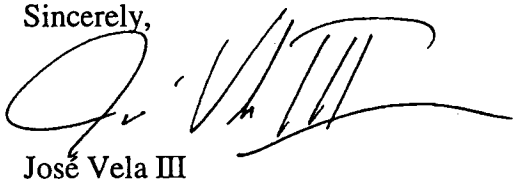
[3]We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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,



José Vela III
Assistant Attorney General
Open Records Division

JV/krl

Ref: ID# 232192

Enc. Submitted documents

c: Ms. Susan Schmidt
Special Agent
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Office of Inspector General
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(w/o enclosures)