



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2005

Ms. Carol Longoria
Public Information Coordinator
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2005-09952

Dear Ms. Longoria:

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# 236043.

The University of Texas at Dallas (the "university") received a request for three categories of information. You inform this office that the requestor verbally modified her request to exclude copies of her "log" files and "programs." See Gov't Code § 552.222. You contend that the e-mails in Tab 5 are not subject to the Act. You state that the university is withholding student identifying information pursuant to the Federal Educational Rights and Privacy Act of 1974 ("FERPA"), section 1232(g) of title 20 of the United States Code, and social security numbers pursuant to section 552.147 of the Government Code. See Open Records Decision No. 634 (1995) (educational institution may withhold student identifying information that is protected by FERPA without the necessity of requesting an attorney general decision); Gov't Code § 552.147(b) (governmental body may redact social security number from public release without necessity of requesting decision from this office under the Act). You also state that some of the requested information will be released, but claim that some of the submitted information is excepted under sections 552.136 and 552.139 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert that the information in Tab 5 is not subject to the Act. Chapter 552 of the Government Code is only applicable to "public information." See Gov't Code § 552.021. Section 552.002(a) defines public information as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." Information that is collected, assembled, or maintained by a third party may be subject to disclosure under chapter 552 of

the Government Code if it is maintained for a governmental body, the governmental body owns or has a right of access to the information, and the information pertains to the transaction of official business. *See* Open Records Decision No. 462 (1987).

You assert that the e-mails in Tab 5 were not collected, assembled, or maintained in connection with the transaction of any official business of the university, nor were they collected, assembled, or maintained pursuant to any law or ordinance. Based on your comments and our review of the e-mails at issue, we agree that these communications do not relate to the transaction of official university business, and therefore do not constitute "public information" of the university. Consequently, the university is not required to release Tab 5 pursuant to the Act. *See* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources).

In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. Based on the reasoning in this decision and our review of the remaining information at issue, we determine that the passwords you have marked in Tab 7 do not constitute public information under section 552.002 of the Government Code. Accordingly, these passwords are not subject to the Act and need not be released to the requestor.¹

You assert that the web links you have marked in the remaining information are excepted under section 552.139 of the Government Code. Section 552.139(a) provides that information related to computer network security is excepted from the requirements of the Act. *See* Gov't Code § 552.139(a). After review of your arguments, we conclude you have established that some of the submitted information is related to computer network security; therefore, the university must withhold this information, which we have marked, pursuant to section 552.139. However, the university has not established that the remaining information is related to computer network security, and it may thus not withhold the information under section 552.139.

To conclude, Tab 5 and the marked passwords in Tab 7 are not subject to release pursuant to the Act. The university must withhold the information we have marked in Tab 7 under section 552.139. The university must release the remaining information.

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.

¹As we determine that these passwords are not subject to the Act, we do not address your argument for exception of this information.

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).

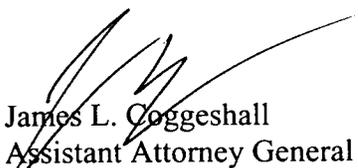
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jpa

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Enc. Submitted documents

c: Ms. Van Nguyen
3605 Lombardy Drive
Wylie, Texas 75098
(w/o enclosures)