



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2006

Mr. Scott A. Kelly
Deputy General Counsel
The Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2006-00196

Dear Mr. Kelly:

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# 239892.

Texas A&M University (the "university") received a request for "all correspondence . . . sent or received by employees of the Women's and Gender Equity Center since September 1, 2005 regarding 'No Nonsense in November' and/or Texas Constitutional proposition 2." You state you will withhold student-identifying information from the requested documents that is protected from disclosure pursuant to the Family Educational Rights and Privacy Act of 1974 ("FERPA"). *See* Open Records Decision No. 634 (1995) (concluding that an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by section 552.101 of the Government Code without the necessity of requesting an attorney general decision as to that exception); *see also* Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). You claim that portions of the submitted information are excepted from disclosure under sections 552.117 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117 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. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You state that the employee whose personal information is at issue timely elected to withhold such information under section 552.024. Accordingly, the university must withhold the employee's personal information we have marked pursuant to section 552.117.

Section 552.137 of the Government Code exempts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). The e-mail addresses we have marked in the submitted information are not of a type specifically excluded by section 552.137(c). You inform us the university has received consent to release these e-mail addresses. Therefore, the university must withhold the e-mail addresses we have marked in accordance with section 552.137.

In summary, the university must withhold the employee's personal information we have marked pursuant to section 552.117. The e-mail addresses we have marked must be withheld pursuant to section 552.137. 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); *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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/krl

Ref: ID# 239892

Enc. Submitted documents

c: Mr. Mark McCaig
14915 Brookpoint Drive
Houston, TX 77062
(w/o enclosures)