



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 2, 2008

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

OR2008-07436

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# 311475.

Texas A&M University (the "university") received two requests for information from the same individual. The first request seeks documents addressing the transfer of funds between the university's division of student affairs and a named rape crisis center and all documents generated by a university student organization. The second request seeks copies of all correspondence between the university and a named Planned Parenthood, as well as all internal documents concerning the university placing students in internships with organizations associated with Planned Parenthood. You state that you are releasing some of the requested information. You state that the university has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a).<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.137 makes certain e-mail addresses confidential, and provides in relevant part the following:

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<sup>1</sup>We note that our office is prohibited from reviewing these educational records to determine whether appropriate redactions under FERPA have been made; therefore, we will not address the applicability of FERPA to any of the submitted records.

(a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

(c) Subsection (a) does not apply to an e-mail address:

(1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;

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Gov't Code § 552.137(a), (b), (c). Under section 552.137, a governmental body must withhold the e-mail address of a member of the general public, unless the individual to whom the e-mail address belongs has affirmatively consented to its public disclosure. *See id.* § 552.137 (b). The types of e-mail addresses listed in section 552.137 (c) may not be withheld under section 552.137. Likewise, this section is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. Therefore, the university must generally withhold the personal e-mail addresses you have marked under section 552.137, unless the owners of these addresses have affirmatively consented to their public disclosure. However, we note that the requestor asserts in his letter to this office that the university has a contractual relationship with Planned Parenthood of Houston and South East Texas ("Planned Parenthood"). Thus, to the extent that the university does in fact have a contractual relationship with Planned Parenthood, then the Planned Parenthood e-mail address, which we have marked, may not be withheld under section 552.137. *See id.* § 552.137(c)(1). To the extent that the university does not have a contractual relationship with Planned Parenthood, then the Planned Parenthood e-mail address must also be withheld under section 552.137.

In summary, to the extent that the e-mail addresses you have marked are not excluded by subsection (c), they must be withheld under section 552.137 of the Government Code, unless the university receives consent for their release. The remaining 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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).

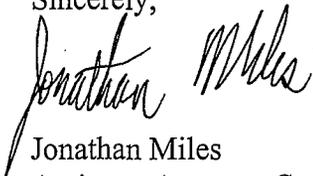
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records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



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jh

Ref: ID# 311475

Enc. Submitted documents

c: Mr. Donald L. Parsons  
4721 Williamsburg Drive  
Bryan, Texas 77802  
(w/o enclosures)