



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2009

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

OR2009-00968

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# 333071.

Texas A&M University (the "university") received a request for all e-mail messages from three university e-mail accounts sent to or from five specified e-mail addresses during two specified time periods.¹ You state the university will redact some of the responsive information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.² You claim portions of the requested e-mail messages are exempted from disclosure under sections 552.117 and 552.137 of the

¹You state the university sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²We note the United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

Initially, we note some of the submitted e-mail messages were not sent between the e-mail addresses specified in the request, and some were not sent within the time periods specified in the request. Thus, this information, which we have marked, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former 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 this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). The university may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. You state the employees whose information is at issue timely chose to not allow public access to their personal information. You have marked the information you seek to withhold under section 552.117. We note, however, a portion of the marked information does not constitute the home telephone number, home address, social security number, or family member information of a university official or employee. Thus, this information, which we have marked for release, may not be withheld under section 552.117 of the Government Code. Accordingly, with the exception of the information we have marked for release, the university must withhold the home address and family information you have marked pursuant to section 552.117(a)(1) of the Government Code.

Section 552.137 of the Government Code excepts 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). You state the e-mail addresses you have marked in the remaining information are not specifically excluded by section 552.137(c). You further state the persons to whom the addresses belong have not consented to the release of the addresses. Therefore, the university must withhold the e-mail addresses you have marked, and the additional e-mail address we have marked, under section 552.137 of the Government Code.

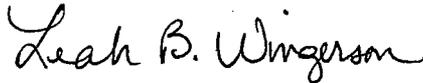
³We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and, therefore, does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

In summary, with the exception of the information we have marked for release, the university must withhold the home address and family information you have marked pursuant to section 552.117(a)(1) of the Government Code. The university must withhold the e-mail addresses you have marked, and the additional e-mail address we have marked, under section 552.137 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/cc

Ref: ID# 333071

Enc. Submitted documents

cc: Requestor
(w/o enclosures)