



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 23, 2009

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

OR2009-05382

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# 340692.

Texas A&M University (the "university") received two requests from the same requestor for contact information pertaining to a named former employee and for a specified public information request to the university made by the former employee.<sup>1</sup> You state that the university has redacted student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).<sup>2</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.117 and 552.137 of

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<sup>1</sup>The university sought and received a clarification of the information requested in the first request for information. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

<sup>2</sup>We note that the United States Department of Education Family Policy Compliance Office (the "DOE") has determined that 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>. Because our office is prohibited from reviewing education records, we will not address the applicability of FERPA to the information at issue, other than to note that parents generally have a right of access to their own child's education records. *See* 20 U.S.C. § 1232g(a)(1)(A); 34 C.F.R. § 99.3.

the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request under section 552.024 that the information be kept confidential. You state, and have provided documentation showing, that the former employee at issue elected to keep his personal information confidential prior to the date the university received the instant request. Accordingly, we find that the district must withhold the information you have marked in the submitted information under section 552.117(a)(1).

Section 552.137 states that "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 [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov't Code § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). You state that the former employee at issue has not consented to the disclosure of his email address. Accordingly, the university must withhold the information you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure.

In summary, the university must withhold the information you have marked under section 552.117(a)(1) of the Government Code. The university must also withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address affirmatively consents to its disclosure. The remaining information must be released to the requestor.<sup>3</sup>

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<sup>3</sup>We note the remaining information contains a social security number. 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. Gov't Code § 552.147.

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](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,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/dls

Ref: ID# 340692

Enc. Submitted documents

c: Requestor  
(w/o enclosures)