



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 28, 2009

Mr. W. Montgomery Meitler  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494

OR2009-07290

Dear Mr. Meitler:

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# 344386 (TEA PIR# 10924).

The Texas Education Agency (the "TEA") received a request for information related to a named individual. You state you are releasing some of the requested information. You also state you have redacted a social security number under section 552.147 of the Government Code.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the agency's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. The agency received the request for information on March 9, 2009. Accordingly, the ten-business-day deadline was March 23, 2009. We received the agency's request for a ruling through interagency mail, however, on March 24, 2009. We find that the agency has

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<sup>1</sup> Section 552.147(b) of the Government Code authorizes a government 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.

provided no evidence that its request for ruling was deposited in interagency mail within the ten business-day deadline. *See* Gov't Code § 552.308(b) (state agency can meet the ten-day requirement if the request is sent by interagency mail and the agency provides evidence sufficient to establish that the request was deposited in interagency mail within that period). Consequently, we find that the agency failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 319 (1982). A compelling reason exists when third-party interests are at stake or when information is confidential under other law. Open Records Decision No. 150 (1977). Because your claim under sections 552.101 and 552.130 of the Government Code can provide a compelling reason for non-disclosure, we will consider your arguments under these exceptions.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 21.048 of the Education Code, which provides in part:

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under [the Act] unless:

(1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or

(2) the educator has failed the examination more than five times.

Educ. Code § 21.048(c-1). You inform us that the submitted information consists of the results of examinations administered under section 21.048 of the Education Code. You also state that the information you have marked reflects that the named educator has not failed an examination under section 21.048 of the Education Code more than five times. You state section 21.048(c-1)(1) is not applicable in this instance. Based on your representations and our review of the submitted information, we conclude that the results of the submitted examinations are confidential under section 21.048(c-1) of the Education Code. Therefore, the agency must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 21.048(c-1) of the Education Code.

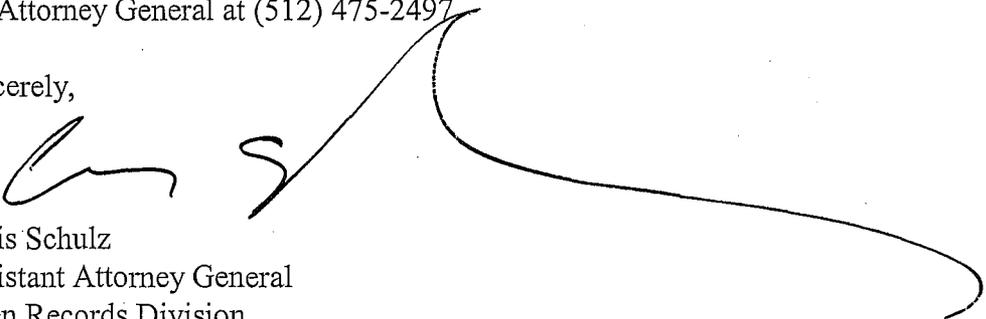
Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Therefore, the agency must withhold the Texas motor vehicle information you have marked under section 552.130.

In summary, the agency must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 21.048(c-1) of the Education Code. The agency must withhold the information you have marked under section 552.130 of the Government Code. The remaining information must be released.

You also ask this office to issue a previous determination permitting the agency to withhold information subject to (1) section 552.101 of the Government Code in conjunction with 21.048(c-1) of the Education Code and (2) section 552.130 of the Government Code without requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, 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,



Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 344386

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)